# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 1.

BANGALORE, THURSDAY, JANUARY 6, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

REGULATION No. III OF 1909.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 30TH DAY OF DECEMBER 1909.)

**A Regulation further to amend the Mysore Chief Court Regulation, 1884.**

Preamble.

WHEREAS it is expedient further to amend the Mysore Chief Court Regulation, 1884; His Highness the Maharaja is pleased to enact as follows :—

Substitution of a new paragraph for the last paragraph of Section 3.

1. The following shall be substituted for the last paragraph of Section 3, *viz.*,

"'Full Bench' means a Bench consisting of not less than three Judges of the Chief Court."

T. ANANDA ROW,
*Dewan.*

---

NOTIFICATION.

*No. 146—L. C., dated 4th January 1910.*

A meeting of the Mysore Legislative Council will be held in the Public Offices, Bangalore, on Thursday, the 13th January 1910, at 1 P.M.

By Order,
S. HIRIYANNAIYA,
*Secy., Mysore Legislative Council.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 5.

BANGALORE, THURSDAY, FEBRUARY 3, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl.* 3540—*Gen. Fin.* 350-09-3; *dated* 26*th January* 1910.

The following rules under the Mysore Government Securities Regulation, IX of 1894, were published in the *Mysore Gazette*, on the 8th April 1909, inviting suggestions and criticisms within three months from the date of publication of the draft rules.

No suggestions or criticisms having been received, the Government of His Highness the Maharaja are pleased to declare that the rules shall come into force from the date of publication.

By Order,
J. S. CHAKRAVARTI,
*Financial Secretary.*

### Rules under the Mysore Government Securities Regulation, IX of 1894.

In exercise of the powers conferred by Section 13 of the Mysore Government Securities Regulation, IX of 1894, the Government of His Highness the Maharaja of Mysore are pleased to make the following rules:—

Printing of interest cages and recording thereon of the payment of interest.

1. Interest cages showing the several half years for which interest will accrue, shall be imprinted on the reverse of each note issued and payment shall be recorded by the stamp of the Disbursing Office, or by a manuscript entry over the space apportioned to the half year concerned. The recording entry shall show the name of the Treasury, the number borne by the payment voucher, and the date of payment; this entry shall be authenticated by the initials of the Treasury Officer; and the holder's receipt shall be taken on the face of the payment voucher.

Endorsement by an Indian female.

2. An endorsement or receipt by an Indian female must be attested by the signatures of at least two respectable witnesses, who must attend before the officer in charge of the Treasury where interest is payable, and certify to the genuineness of the endorsement or receipt.

Endorsement by a private trust not recognized.

3. No notice will be taken of any trust appearing in an endorsement of transfer or receipt for interest. When a note is endorsed to, or receipted by, any person in his capacity of trustee or in any other representative capacity, such person will be treated in all respects as the true owner of the note.

A note, blank-endorsed by the holder not receivable.

4. A note, blank-endorsed by the holder is not receivable at any Government Treasury or at the Comptroller's Office. The holder of any such security will therefore be required to specially endorse the same before submitting it for payment of interest.

Cases in which renewal of Government Securities is necessary.

5. The holder of any note may be required to receipt the same for renewal in all or any of the following cases, that is to say :—

(1) If only sufficient room remains on the back of the note for one further endorsement or when any word or words is or are written upon the note across any existing endorsement or endorsements, all cross endorsements being strictly prohibited.

(2) If the note is torn or in any way damaged or crowded with writing or unfit, in the opinion of the officer before whom it is produced for payment of interest, for receiving endorsement.

(3) If the note bears an endorsement which transfers the note to, or is signed by, any person otherwise than in his personal capacity except in the undermentioned cases :—

(*a*) Where the transferee is a well-known firm, corporate body, or Bank, or the signature attached to the endorsement is the usual name or signature of such a firm or purports to be the impression, of the common seal of a corporate body with perpetual succession, or is the signature of the Secretary, Deputy Secretary, Manager, or Agent of a Bank or corporate body ;

(*b*) Where an endorsement is made in his official capacity by the person holding for the time being one of the offices to which the Government of Mysore has, by notification in the official Gazette, declared Section 6, sub-section (1) of the Mysore Government Securities Regulation, IX of 1894, to apply ;

(*c*) Where the transfer is made to or by a person in whose favor a certificate under the Succession Certificate Regulation (VII of 1901) or probate or letters of administration under the Indian Succession Act (X of 1865) has (or have) been granted by a Court of competent jurisdiction ;

(*d*) Where the transfer is made to, or by the executor or an administrator of an estate, who is described as such therein, such executor or administrator being shown to be the holder according to the tenor of the note of previous endorsements.

(4) If the endorsement is not clear and distinct, or if it is made on a paper affixed to Government Promissory Note.

(5) If, in the opinion of the officer before whom the note is presented for payment of interest, the title of the person so presenting the note is irregular or not fully approved.

(6) If the note in question being the counterpart note issued under the provisions of Rule 6, has ceased to be the property of a minor or to belong to an estate in which the administration is limited to interest.

In all or any of the preceding cases payment of any further interest on such note may be refused until the note is receipted for renewal and actually renewed.

Issue and withdrawal of counterpart notes.

6. In the case of any note which is the property of a minor or belongs to an estate in which administration is limited to interest, the Comptroller may upon such note being deposited with him issue to the holder of such note a counterpart thereof having the words "Counterpart not negotiable" stamped across the face thereof and further payments of interest may be recorded upon such counterpart. Whenever such note shall cease to be the property of a minor or shall cease to belong to an estate in which administration is limited to interest, the further payment of interest, in respect of the note may be refused until the first or any subsequent counterpart (as the case may be) issued in respect of it has been receipted and renewed in the manner provided in the last preceding rule. Upon such counterpart being receipted and renewed as aforesaid, the same together with the original note, and any preceding counterpart issued in respect thereof will be cancelled.

7. No payment of interest and no record or acknowledgment of the payment of interest and no issue of a counterpart note under the preceding rules is to be deemed or taken to be acknowledgment of the title of the holder of any note.

Fee in respect of applications for renewal of notes or issue of duplicate.

8. The following fee is payable in respect of applications under Sections 10 and 11 of the Mysore Government Securities Regulation, IX of 1894 :—

For each renewed or duplicate security, rupee one.

9. A note tendered for renewal must be receipted on the reverse as follows :—

"Received, in lieu hereof, a renewed note, payable to (name of holder), with interest payable at.....

Signature of the Holder
Duly authorized representative of (name of holder)."

10. If a person tendering a note for renewal applies for more than one note in lieu of the note tendered, the latter must be receipted on the reverse as follows, or in a form as near thereto as circumstances will admit :—

"Received, in lieu hereof, two (or more) notes for Rs..... respectively, payable to (name of holder), with interest payable at.....

Signature of the Holder
Duly authorized representative of (name of holder)."

11. If a person tendering more than one note for renewal applies for one consolidated note in lieu of the notes tendered, the latter must be receipted as follows, or in a form as near thereto as circumstances will admit :—

"Received, in lieu hereof, a new note payable to (name of holder), for Rs.....(by consolidation with Promissory Note or Notes Nos.....) (mentioning the numbers and amounts of the other notes desired to be consolidated with it), with interest payable at.....

Signature of the Holder
Duly authorized representative of (name of holder)."

12. The form of receipt mentioned in the foregoing rules must be very clearly and correctly written, and there must be no ambiguity as to the name of the payee of the new note. The name of the holder as signed by him or as entered by the duly authorized representative below his own signature, should agree letter for letter with the name in the body of the note, or in the transferring endorsement, as the case may be. Where the holder himself signs the receipt, he may add his usual signature below.

How and where Government Securities are to be renewed.

13. The holder of any note requiring renewal may procure a renewed note in either of the following ways,— that is to say, he may present it duly receipted either in person or through a representative (1) at the Comptroller's Office; or (2) at a Government Treasury for transmission to that office. The prescribed officer referred to in Section 10 of the Mysore Government Securities Regulation, IX of 1894, shall be the Comptroller.

14. The officer referred to in Section 11 of the Mysore Government Securities Regulation, shall be the Comptroller for the time being.

15. The Comptroller is authorized to prescribe the form of voucher for payment of interest and issue any subsidiary rules or instructions, not inconsistent with the above rules, which may be required for the guidance of the officers concerned.

*Procedure on loss of Promissory Notes of the Mysore State Loans.*

16. The loss or destruction of a Promissory Note of the Mysore State shall be notified, in the first instance, by a letter addressed to the Comptroller to the Government of His Highness the Maharaja of Mysore; such letter shall contain the following particulars:—

(1) Particulars of the note according to the following form:—
Promissory Note for Rs.....No.....of the.....per cent Mysore State Loan of.... .....

(2) Last half year for which interest has been paid.

(3) To whom paid.

(4) Name of the person in whose name the note was issued (if known).

(5) Where enfaced at present.

(6) The circumstances attending the loss.

(7) Whether the loss was reported to the Police.

The above letter shall be accompanied by—

(*a*) The Post Office Registry receipt for the letter containing the note, if the same was lost in transmission by post.

(*b*) The Police report, if any can be obtained.

(*c*) A letter signed by the Officer of the Treasury where interest was last paid certifying the last payment of interest made on the note and to whom the payment was made.

(*d*) If the applicant is not the last registered holder, all documentary evidence necessary to trace back the title to the last registered holder.

(*e*) Any portions or fragment which may remain of the lost or destroyed note.

A duplicate copy of the letter to the Comptroller must also be sent to the Treasury where interest is payable.

17. The loss or destruction of a Promissory Note shall be further notified by an advertisement both in English and Kanarese, which the applicant for a duplicate note shall cause to be inserted in three successive issues of the *Mysore Gazette*. Such notification shall be in the form following, or as near thereto as the circumstances will admit:—

*Lost or destroyed (as the case may be).*

The Mysore Government Promissory Note No..... of the.....per cent loan of.....for Rs....., originally standing in the name of..... and last endorsed to....., the proprietor, by whom it was never endorsed to any other person, having been lost or destroyed, notice is hereby given that payment of the above note and the interest thereupon have been stopped by the Comptroller to the Government of His Highness the Maharaja of Mysore and that application is about to be made for the issue of a duplicate in favor of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of advertiser.....

Residence.....

18. At the expiration of six months from the date of the insertion of the last advertisement, the Comptroller, if satisfied of the loss or destruction of a portion of a note and of the justice of the claim of the applicant, and if a sufficient portion for the identification of the note so lost or destroyed shall have been produced, shall, upon the execution of such bond of indemnity (with or without sureties) as is hereinafter mentioned, issue to the applicant a duplicate note in lieu of that so lost or destroyed as aforesaid. If, however, no portion or no sufficient portion of the note so lost or destroyed shall have been produced as aforesaid, then at the expiration of the two years from the date of the insertion of such last advertisement, the

Comptroller shall, if satisfied as aforesaid, pass an order directing the Treasury where interest is to be made payable upon the execution of such bond of indemnity as is hereinafter mentioned, to pay the applicant interest in respect of the note so lost or destroyed pending the issue of a duplicate note and also shall, at the expiration of six years from the date of the publication of the list in which the lost or destroyed security is first mentioned, if no reason to the contrary appear, issue to the applicant (on his executing and procuring the execution by two sureties of such indemnity bond as is hereinafter mentioned, should the same be deemed necessary by the Comptroller), a duplicate note in lieu of that so lost or destroyed as aforesaid.

19. The Comptroller may, within six years of the date of an order passed by him under the preceding rule, if he finds sufficient reason, alter or cancel such order, and may also require that the interval before the issue of a duplicate note be extended to twelve years, or such shorter period not being less than six years as he may think fit.

20. Indemnity bonds when taken on the issue of a duplicate note or notes shall be for twice the amount of such note or notes, and when taken on the issue of orders for payment of interest shall be for twice the amount of the interest involved, that is to say, twice the aggregate amount of all back interest accrued due on the note, plus twice the amount of all interest to accrue due thereon during the six years which will have to elapse before the issue of a duplicate note can be made. In simple cases such bonds may be issued by the Comptroller in a printed form prescribed by Government. No fee will be chargeable if a bond does not exceed in amount Rs. 500; but on bonds for higher amounts a fee of Rs. 5 for every Rs. 1,000 or part of Rs. 1,000 will be charged, provided that no fee for any one bond so issued shall exceed in amount Rs. 30. If, however, the Comptroller considers that the circumstances of the case demand that a bond shall be specially prepared by the Government Advocate, a fee of Rs. 32 shall be payable to that officer.

21. The list of securities lost or destroyed, referred to in Section 11 (3) of Regulation IX of 1894, in respect of which an order is made for payment of interest pending the issue of a duplicate security, or for the issue of such duplicate security, shall be advertised half-yearly in the *Mysore Gazette*, in the months of January and July or as soon afterwards as may be convenient. All securities in respect of which an order has been passed as aforesaid shall be included in the first list published next after the passing of such order and shall continue to be advertised every half year until the expiration of six years from the date of first publication or from the date of the last payment of interest on the original securities, whichever is the later date. Such list shall contain the following particulars, *viz.*, the name of the loan and number of the lost note, its value, in whose name it was issued, from what date it bears interest, the name of the claimant for a duplicate, the number and date of the order passed by the Comptroller for payment of interest or issue of a duplicate, and the date of publication of the list in which such security was first mentioned.

# The Mysore Gazette

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 8.

BANGALORE, THURSDAY, FEBRUARY 24, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl. 4165—S. R. 15-09-2, dated 19th February 1910.*

In exercise of the powers conferred by Section 9 of the Mysore Stamp Regulation, II of 1900, it is hereby notified that the Government of His Highness the Maharaja of Mysore are pleased to remit the stamp duty payable on receipts granted by the Officer in charge of the Palace Establishments when acting on behalf of the Personal Estate Accounts of the Members of the Ruling Family.

By Order,

C. S. BALASUNDARAM IYER,

*Officiating Secretary to Government,*

*General and Revenue Departments.*

# The Mysore Gazette

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 9.

BANGALORE, THURSDAY, MARCH 3, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

---

NOTIFICATION.

*No. Fl. 4165—S. R. 15-09-2, dated 19th February 1910.*

In exercise of the powers conferred by Section 9 of the Mysore Stamp Regulation, II of 1900, it is hereby notified that the Government of His Highness the Maharaja of Mysore are pleased to remit the stamp duty payable on receipts granted by the Officer in charge of the Palace Establishments when acting on behalf of the Personal Estate Accounts of the Members of the Ruling Family.

By Order,

C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

**Vol. 45.] PUBLISHED BY AUTHORITY. [No. 11.**

BANGALORE, THURSDAY, MARCH 17, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl. 4522—S. R. 171-09-2, dated 12th March 1910.*

In exercise of the powers conferred by Section 2, Act XVI of 1863, as applied to Mysore by Regulation II of 1885, and Sections 13 and 15 of the Mysore Excise Regulation, V of 1901, in that regard, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendments to the Methylated Spirit Rules published under Government Notification No. Fl. 964—S. R. 20-08-3, dated the 20th August 1908, and these amendments will come into force at once:—

1. In para (4) of Rule 3, substitute "50 per cent" for "30 per cent."
2. Add the following as Rules 11 and 12:—

"11. The cost of all analyses made under these rules must be borne by the owner of the spirit, wood-naphtha or caoutchoucine analysed."

"12. The minimum strength at which imported and locally made methylated spirit can be sold will be 50° over-proof."

By Order,
C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government, General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 12.

BANGALORE, THURSDAY, MARCH 24, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl.-4522—S. R. 171-09-2, dated 12th March 1910.*

In exercise of the powers conferred by Section 2, Act XVI of 1863, as applied to Mysore by Regulation II of 1885, and Sections 13 and 15 of the Mysore Excise Regulation, V of 1901, in that regard, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendments to the Methylated Spirit Rules published under Government Notification No. Fl. 964—S. R. 20-08-3, dated the 20th August 1908, and these amendments will come into force at once :—

1. In para (4) of Rule 3, substitute "50 per cent" for "30 per cent."

2. Add the following as Rules 11 and 12 :—

"11. The cost of all analyses made under these rules must be borne by the owner of the spirit, wood-naphtha or caoutchoucine analysed."

"12. The minimum strength at which imported and locally-made methylated spirit can be sold will be 50° over-proof."

By Order,

C. S. BALASUNDARAM IYER,

*Officiating Secretary to Government, General and Revenue Departments.*

# The Mysore Gazette.

**Vol. 45.] PUBLISHED BY AUTHORITY. [No. 13.**

BANGALORE, THURSDAY, MARCH 31, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATIONS.

*No. Fl. 4522—S. R. 171-09-2, dated 12th March 1910.*

In exercise of the powers conferred by Section 2, Act XVI of 1863, as applied to Mysore by Regulation II of 1885, and Sections 13 and 15 of the Mysore Excise Regulation, V of 1901, in that regard, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendments to the Methylated Spirit Rules published under Government Notification No. Fl. 964—S. R. 20-08-3, dated the 20th August 1908, and these amendments will come into force at once:—

1. In para (4) of Rule 3, substitute "50 per cent" for "30 per cent."
2. Add the following as Rules 11 and 12:—

"11. The cost of all analyses made under these rules must be borne by the owner of the spirit, wood-naphtha or caoutchoucine analysed."

"12. The minimum strength at which imported and locally-made methylated spirit can be sold will be 50° over-proof."

*No. Fl. 4736—S. R. 267-08-3, dated 23rd March 1910.*

In exercise of the powers conferred by Section 29 of the Mysore Excise Regulation, V of 1901, as amended from time to time, and of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendments to the Foreign Liquor Rules published under Government Notification No. 11469—Ex. F. 3-01, dated 10th January 1902, and amended from time to time:—

For the present Rule XI, substitute the following:—

"No foreign spirits weaker in strength than 15° U. P. will ordinarily be entered in the authoritative list issued by the Excise Commissioner, referred to in Rule VII, or allowed to be sold under any of the licenses granted under Rule II except under special licenses and dining car licenses; but the Government may authorise the entry in the list and the sale of any specified brands of weaker strength, on being satisfied of their wholesomeness and purity."

By Order,

C. S. BALASUNDARAM IYER,

*Officiating Secretary to Government, General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 14.

BANGALORE, THURSDAY, APRIL 7, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl.* 4736—*S. R.* 267-08-3, *dated* 23*rd March* 1910.

In exercise of the powers conferred by Section 29 of the Mysore Excise Regulation, V of 1901, as amended from time to time, and of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendments to the Foreign Liquor Rules published under Government Notification No. 11469—Ex. F. 3-01, dated 10th January 1902, and amended from time to time:—

For the present Rule XI, substitute the following:—

"No foreign spirits weaker in strength than 15° U. P. will ordinarily be entered in the authoritative list issued by the Excise Commissioner, referred to in Rule VII, or allowed to be sold under any of the licenses granted under Rule II except under special licenses and dining car licenses; but the Government may authorise the entry in the list and the sale of any specified brands of weaker strength, on being satisfied of their wholesomeness and purity."

By Order,

C. S. BALASUNDARAM IYER,

*Officiating Secretary to Government, General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 15.

BANGALORE, THURSDAY, APRIL 14, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATIONS.

*No. Fl.* 4736—*S. R.* 267-08-3, *dated* 23*rd March* 1910.

In exercise of the powers conferred by Section 29 of the Mysore Excise Regulation, V of 1901, as amended from time to time, and of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendments to the Foreign Liquor Rules published under Government Notification No. 11469—Ex. F. 3-01, dated 10th January 1902, and amended from time to time :—

For the present Rule XI, substitute the following :—

"No foreign spirits weaker in strength than 15° U. P. will ordinarily be entered in the authoritative list issued by the Excise Commissioner, referred to in Rule VII, or allowed to be sold under any of the licenses granted under Rule II except under special licenses and dining car licenses; but the Government may authorise the entry in the list and the sale of any specified brands of weaker strength, on being satisfied of their wholesomeness and purity."

*No. Fl.* 4967—*S. R.* 197-09, *dated* 7*th April* 1910.

In exercise of the powers conferred by Section 5 of the Opium Act, I of 1878, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendment in the Opium Rules published under Notification No. 8198—Ex. F. 21-97, dated the 19th May 1900, as amended by Notification No. 1243—Ex. F. 21-97, dated the 24th July 1901 :—

In line 1, clause (1), of Rule XI for the words "in quantities of not less than 24 tolas," substitute "in entire cakes of 20 tolas (more or less)."

By Order,
C. S. Balasundaram Iyer,
*Officiating Secretary to Government, General and Revenue Departments.*

*No. R. 6732—L. R. 264-09-2, dated 9th April 1910.*

In exercise of the powers conferred on them by Section 55 (1) of the Mysore Land Acquisition Regulation, No. VII of 1894, the Government of His Highness the Maharaja of Mysore are pleased to issue the following rules under the said Regulation, in supersession of all existing orders on the subject of the acquisition of lands for public purposes and Companies :—

PART I.

*Procedure preliminary to obtaining the sanction of Government to the acquisition of land.*

I. No land should be acquired by any department except through the Deputy Commissioner of the District in which it is situated.

II. When a Municipality or any department of Government or a Company wishes to acquire land for any public purpose, it shall send a requisition to that effect to the Deputy Commissioner intimating the situation and area of the land required and the purpose for which it is needed together with a sketch of the land, if necessary. The requisitioning authority may also intimate to the Deputy Commissioner a limit of price of the land to be acquired, if it considers it necessary to fix one.

III. In the case of lands to be acquired on behalf of a Company the matter should be referred to Government under Section 39 of the Land Acquisition Regulation and further proceedings as laid down in these rules taken only after Government have signified their approval to the acquisition of the lands under the Regulation.

IV. On receipt of the requisition, the Deputy Commissioner shall make necessary enquiries as to the value of the land and if he considers that the land required cannot be had within the limit, if any, fixed by the requisitioning authority, he shall intimate the same to the department concerned or to the Company, and await its further instructions in the matter. When intimation has been received by the Deputy Commissioner from the department concerned or the Company, of the decision to proceed with the acquisition of the land, the Deputy Commissioner shall after satisfying himself that the requisite funds for the acquisition are available, submit for the sanction of Government a declaration (statement) to the department of the Government Secretariat which budgets for and carries out or sanctions the work, with full details as to the description, boundaries and area of the land required as well as the estimated cost of its acquisition. The declaration under the Land Acquisition Regulation will issue from the same department of the Government Secretariat after consideration of the necessity for the acquisition and the expenditure that may be incurred for the purpose.

V. On receipt of the sanction of Government for the acquisition, the Deputy Commissioner shall proceed to acquire the land.

VI. Whenever land which does not already vest in Government is permanently required for Government purposes, it should invariably be acquired under the Land Acquisition Regulation as such acquisition confers an indefeasible title. In acquiring land for temporary occupation also the Regulation should be applied whenever practicable.

VII. Deputy Commissioners should not ordinarily take possession of the land before all the preliminary steps prescribed by the Regulation have been taken. This is so the more especially in view of Section 48 of the Regulation which secures for Government the liberty to withdraw from acquisition (on account of excessive cost or otherwise) when possession has not been taken.

VIII. However, in cases in which land is voluntarily offered by its owner for being applied to a purpose for which the acquisition of the land by Government is necessary, the Deputy Commissioner on being satisfied of the title of the owner to the land, may, where the extent is not large, dispense with the formalities of acquisition under the Regulation.

## PART II.

*Procedure after sanction is accorded by Government to the acquisition of the land, and publication of the declaration.*

IX. After publication of the declaration in the Gazette, the Deputy Commissioner's representative and the representative of the acquiring department or Company should meet on the ground and together demarcate clearly by stakes or other methods the exact area to be acquired. The acquiring officer should, if possible, personally inspect the locality and should, in any case, verify the area with the aid of the map.

X. When land is acquired for a Municipality or a District Board or a Company, the money value awarded for the land acquired or the value of the Government land, if any, given in exchange therefor will be charged against the Local Body or Company on whose behalf the land is acquired. Where land has to be acquired on behalf of a private Company, a sum sufficient to cover the cost of acquisition and other incidental expenses should be required to be deposited immediately after Government sanction to the acquisition of the land is obtained, before any further proceedings are taken.

XI. When acquisition of lands is made on behalf of a Municipality or other Local Body or Company, the Government may also, at their discretion, direct that the assessment should continue to be paid by the Municipality or Local Body or Company or direct the payment of a lump sum in commutation of the liability to pay the assessment. When the acquisition is made on behalf of any department of Government, the assessment will usually be written off on reference to the Revenue Commissioner. If the Revenue Commissioner considers that there are any special grounds for not waiving the recovery of assessment in such cases, he will seek the orders of Government.

XII. In determining the amount of compensation which should be allowed for the land, the acquiring officer should not restrict himself merely to the consideration of such evidence as may be adduced by the claimants but should do his best to obtain any reliable information that may be forthcoming as to the real market value of the land. He should study any estimates framed in connection with the proposal to acquire the land, and make a careful search through indexes maintained in the Sub-Registar's office to

ascertain the history of the land so far as the Sub-Registrar's records disclose it. Having collected all possible information regarding the value of the land itself, he should collect similar information regarding adjacent land or land of a like character from the Registration Indexes, Survey and Settlement Reports, or any other similar source. He should be careful, however, before accepting the figures shown in documents found in the Registration offices, to examine the history of each transaction as far as possible, as the amounts therein shown are often so inflated by usurious interest as to bear no relation to the real value of the land.

XIII. As a rule, all acquisitions of land involving interests of any appreciable value, should be made by the Deputy Commissioner himself in person with the aid, if necesssary, of the Sub-Divisional Officer, in order to ascertain the proper value of the land. Where, however, land is required for an extensive public work or any similar large project and it would not be possible for the Deputy Commissioner personally to attend to such acquisition, a special officer may be appointed, the cost of the special officer so appointed being provided for as part of the cost of the acquisition.

XIV. The acquiring officer, if he is not the Deputy Commissioner of the District, should also consult the latter in any doubtful or difficult case before making the award. In particular, he should refer to him any case in which he proposes to award more than 10 per cent in excess of the original estimate, or more than Rs. 1,000. He must also refer his proposed award in any case which the Deputy Commissioner by special order requires him to do so, and in all cases where a reference to the Deputy Commissioner is made, the acquiring officer should make his final award according to the instructions received from the Deputy Commissioner.

XV. In fixing the compensation special attention should be paid to the directions given in Sections 23 and 24 of the Regulation and the general principles recognized by the Courts in determing the market value of the land kept in view. The term "market value" means the price which at the given time and place, the land would fetch on sale according to the then rates of the market; and this value depends on general pre-existing considerations apart from the individual projects of a particular purchaser, and does not include merely potential values such as may arise from the use to which the land is to be put.

For instance, when agricultural land is to be acquired for building purposes, the amount payable is its value as agricultural land and not as sites for dwelling houses or as building land for other purposes to which the land might possibly be put in the future.

XVI. For the purpose of his enquiry, the acquiring officer should, in addition to the notices required by Section 9 of the Regulation, give sufficient notice to the departmental or other officer concerned, or the Local Authority or Company for whom the land is being acquired and should give due weight to any representation which such officer, may make orally or by writing. More especially he should before making his award allow such

officer an opportunity of appearing in person or by agent and of producing evidence as to the value of the land. (Section 50 of the Regulation.)

XVII. If the acquiring officer's award as finally settled after objections have been heard, exceeds by more than 20 per cent of the preliminary estimate of the cost of acquisition prepared before the issue of a notification under Section 6 of the Rugulation or if the evidence is conflicting and such as to indicate the possibility that a Civil Court may award a sum similarly exceeding that estimate, he should not immediately announce the award but should inform the departmental officer of the facts. Further action should then be postponed until the proper authority has decided whether the acquisition should be proceeded with or not.

XVIII. When an award has been made, possession of the land (if not already taken under Section 17 of the Regulation) can be taken at once and need not be deferred till the compensation is paid. The acquisition is completed only when the land is taken possession of, up to which Government are at liberty to withdraw from the acquisition but not afterwards. As soon as it is taken possession of, the land vests absolutely in the Government.

XIX. An award made by a Deputy Commissioner under Section 11 and duly announced under Section 12 of the Regulation, should not be revised or amended by him even though the persons interested may consent to the revision or amendment.

XX. The claims of all persons which can be ascertained by a reference to the Registration indexes are binding on Government whether formally advanced or not. In apportioning compensation care should be taken that all these claims are provided for by a careful search of the Registration indexes as it may often happen that the nominal occupant (khatedar) is one person and the actual possessor another.

XXI. In acquiring service lands, *i.e.*, lands in respect to which service is rendered whether to Government or the village community, in which the actual holder has only a life interest or the profits of which are assigned as remuneration for an officiator, the award of a lump sum as compensation is inappropriate and should not be adopted as such an award would diminish *pro tanto* the remuneration available for future service. In such cases an arrangement under sub-section (3) of Section 31 of the Regulation should be made with the person or persons interested for the grant of other lands in exchange.

XXII. As a rule, the lands selected to be given in exchange should be assessed Government waste. But when no suitable lands are available, the amount of compensation awarded may be applied in purchasing occupied unalienated lands to be assigned in exchange. In exceptional cases where it will be less expensive to allow some unalienated lands already belonging to the holder to be converted into inam than to purchase other lands for the purpose, the exchange may be permitted and the person enjoying the Inam paid the value of the land so selected in addition to any benefits that he may derive from the treatment of the land as Inam.

XXIII. When the survey valuation of the land selected to be given in exchange is equal to that of the original service Inam, the former will be converted into Inam subject to the payment of the original Jodi.

XXIV. When the survey valuation of the land selected to be given in exchange exceeds that of the original service Inam, the difference between the survey valuation of the two lands will be levied as additional Jodi together with the original Jodi.

XXV. When the survey valuation of the land selected to be given in exchange is less than that of the original service Inam, the original Jodi will be reduced by the difference between the survey valuation of the two lands, and if the difference exceeds the original Jodi, the amount required to make up the deficiency in the profit will be paid in cash annually.

XXVI. In cases where it is not possible to assign lands in exchange, the value of the land acquired will be invested and a cash payment of not less than 2½ times the survey assessment made annually. Where the amount to be paid annually does not exceed Rs. 5, Government in their discretion may direct the payment of a lump sum.

## PART III.

*Procedure when the award of an acquiring officer is referred to a Civil Court.*

XXVII. Whenever an issue is raised in a reference to the Court as to the amount of compensation to be awarded for the land, the Deputy Commissioner should arrange for the defence of the award as if it were a suit against Government, except that the sanction of Government to its defence need not be obtained, but he should make a reference to the Government Advocate stating the lines on which it is proposed to defend it and the evidence it is intended to adduce, and seek his advice before the defence is actually entered on. In particular, care should be taken that reliable evidence is, as far as possible, adduced before the Court in support of the grounds on which the award is based and ordinarily some revenue officer of superior rank (*e.g.* an Amildar or Shekdar) who has himself seen the land, should among others, be called in as a witness. A clear and accurate plan of the land acquired should also, as a rule, be prepared and put in evidence. An officer thoroughly conversant with the facts of the case and able to explain any points of revenue practice that may arise, should invariably be deputed to instruct the Government Pleader during the course of the proceedings and watch the case. When the sum involved is considerable or the compensation is claimed at very high rates, the case should generally be watched by an officer of not lower status than an Assistant Commissioner.

XXVIII. In any case where the reference relates to land acquired for a Local Authority or Company, the Deputy Commissioner should at once give notice of it to such Local Authority or Company calling on it to assist in the defence of the award under Section 50 of the Regulation, and should take all necessary steps for conducting the defence with its co-operation.

XXIX. A special report should be made to Government in cases which are of serious importance owing to the amount involved or the likelihood of the Court's award forming a precedent detrimental to Government interests in the event of land having to be acquired subsequently for the Government in the same neighbourhood.

XXX. When the Court's award in a reference regarding the amount of compensation exceeds that of the acquiring officer, the Deputy Commissioner should at once consider the advisability of making an appeal under Section 54 of the Regulation, and if he decides in favour of this course, should apply to Government for sanction. In cases where an appeal is made by any claimant, the Deputy Commissioner will take steps for its defence and obtain the sanction of Government to engage the Government Advocate to appear on behalf of Government in all cases of importance or where a point of law is involved.

## PART IV.

*Payment of Compensation.*

XXXI. The payment of compensation should be made as soon after the declaration of the award as possible as under Section 34 of the Regulation interest at 6 per cent is payable on the amount of compensation for the interval between the date of taking possession of the land and the date of payment. Accordingly, the Deputy Commissioner should immediately after making an award under Section 11 tender payment of compensation to such of the persons entitled thereto as are then present either personally or by their representatives.

XXXII. To those who are not so present a notice should at once be sent through the Amildar or the Deputy Amildar of the Taluk or Sub-Taluk in which they reside, intimating the fact that an award has been made and that unless the amount awarded is claimed by the party either personally or through a duly authorised agent within a time to be specified, the money will be placed in deposit and will bear no interest.

XXXIII. If the parties accept the tender personally or by application in response to the notice, arrangements should be made to pay them the amounts without delay, after obtaining the necessary receipt. If the claims to be paid are very small and the Treasury is situated at a distance from the village of the claimants, the amounts may be paid to them in their villages by the Amildar personally or adjusted at their request against Government dues. If the parties do not demand payment within the time specified and do not apply for a reference to the Court under Section 18 of the Regulation, the compensation money should be placed in Revenue Deposit and dealt with under the rules relating to Revenue Deposits. If the parties declining to accept payment desire a reference to the Court or if any of the other contingencies mentioned in Sections 30 and 31 (2) of the Regulation has happened, the compensation money should be deposited in the Civil Court.

By Order,

C. S. BALASUNDARAM IYER;

*Officiating Secretary.*

## NOTIFICATION.

*No. 226—L. C., dated Bangalore, the 1st April 1910.*

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying report of the Select Committee appointed for the consideration of the Village Tank Panchayet Bill is published for general information with the Bill as amended by the Committee.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

---

## Report of the Select Committee appointed for the consideration of the Village Tank Panchayet Bill.

We, the members of the Select Committee appointed for the consideration of the Village Tank Panchayet Bill, beg to submit the following report to the Council.

The Committee first met on the 17th December last and resolved to invite the opinions of Deputy Commissioners and select non-official gentlemen and Associations before finally considering the provisions of the Bill. As these opinions were not received in time (in spite of repeated reminders), the Committee were compelled to ask for an extension of the time fixed for the submission of the report till the 15th September 1909. As in the meanwhile, the term of office of several members of the Council expired, two of the members of the Committee, *viz.*, Messrs. M. Kantaraj Urs and V. N. Narasimmiengar had to vacate their seats. In their places the Dewan was pleased to appoint Messrs. D. Devaraj Urs and M. C. Ranga Iyengar, B.A.

The Committee as thus constituted began their sittings on the 5th August 1909 and continued their discussions on the 6th and 7th idem. All the provisions of the Bill were carefully gone through and as a result we beg to submit the following report.

1. *Title and preamble.*—As Panchayets will be constituted only with reference to tanks and as they need not be confined to villages, we consider it sufficient to call the Regulation "The Tank Panchayet Regulation" and recommend that the word "village" be omitted from the title of the Bill and from the expressions "Village Tank Panchayet" and "Village Tank Fund," wherever they occur.

*Para 3 of the preamble.*—As the defects which the Bill intends to remedy are sufficiently enumerated in the two preceding paragraphs, we consider that special reference to the revival of communal spirit made herein is unnecessary and recommend that the words "and to revive the communal spirit among the raiyats" be omitted.

2. *Clause 2 (a) Definitions.*—Allusion has been made in the preamble to the customary obligations of the raiyats and what these are have been explained in sub-clause (*b*) of this clause as duties devolving on raiyats under the Chief Commissioner's Notification No. 65, dated the 2nd October 1873, as amended by Government Notification No. 5262—Agri. 626-03-7, dated the 15th December 1904. Such an explanation though strictly correct is nevertheless not sufficiently clear to bring home to the minds of the ordinary people the specific obligations resting on them in respect of maintenance of the tanks. We consider it necessary therefore to explain matters further and accordingly recommend that the Chief Commissioner's Notification referred to above as amended by the Notification of 1904 be printed *in extenso* as a schedule to the Regulation. If this is done the definition of the word "Maintenance," which, as it is, simply reproduces the phraseology of the Notification will be quite unnecessary and may be dropped. This will also render necessary to retain clause 2 (*b*) of the Bill which we have therefore expunged.

"Maintenance."

[redacted] defined so as to mean *special repairs* that may be rendered necessary in regard to tanks by unforeseen causes, as opposed to *petty repairs* included in the expression

"maintenance and upkeep." We notice that clause 9 (2) is the only place in which reference is made to such special repair. Instead of having therefore a separate definition of the word we consider it sufficient to substitute the substance of this definition for the word "repair" occurring in the clause mentioned above.

"Village."

The definition as it stands is likely to give rise to the impression that Panchayets may be constituted for purposes other than the control or maintenance of a tank. This, however, is not the object of the Bill. We have therefore substituted the following in place of the existing definition:—

"'Village' includes a group of villages or any specified area for which a Tank Panchayet may be constituted."

"Raiyats."

Instead of enumerating the persons coming under this word as has been done in the Bill we consider that it may be defined next after "customary obligations" so as to mean those persons on whom the obligations devolve the expression "customary obligations" being thus defined:—

"(7) The expression "customary obligations" means obligations enforceable in regard to tanks under the Notification of the Chief Commissioner of Mysore, No. 65, dated the 2nd October 1873, as amended by Government Notification No. 5262—Agri. 626-03-7, dated the 15th December 1904, and specified in the schedule appended to this Regulation, or under any other law or any rule, order or custom having the force of law."

The definition of the word "raiyat" would then be as follows:—

"(8) 'raiyats' shall mean the individuals on whom such customary obligations devolve."

"Patel and shanbhog."

In this definition, for the words "where a Village Tank Panchayet is constituted for a group of villages or for a tank or a group of tanks" we have substituted the words "where there are more than one such patel or shanbhog" so as to suit the altered definition of the word "village."

*Clause* 3.—Provision has been made here in regard to (1) the objects for which a Panchayet may be constituted; (2) the circumstances under which it may be constituted and (3) the members of whom it is to be composed.

As regards the first, we are of opinion that the clause does not enumerate the objects in sufficient detail and that reference should be made here to the work of restoration, construction and improvement of tanks, which may be undertaken by a Panchayet under old clause 15 (new clause 16) of the Bill. We have accordingly expanded this part of the clause adopting as far as possible the language used in the Chief Commissioner's notification. The amended portion will then run as follows:—

"For the effectual carrying out of the customary obligations of the raiyats, in regard to the maintenance and upkeep of tanks; for facilitating the construction, restoration and improvement of tanks, etc."

Regarding the second point we observe that according to the Bill a Panchayet may be constituted if a certain majority of the raiyats of the village should so desire. It has been represented to us that this condition does not sufficiently safeguard the interests of persons holding extensive wet lands under the tank. The number of such persons may be small, but as they represent large interests we consider that their vote is entitled to far greater weight than their mere numer strength would justify. We have therefore added a fresh condition requiring the majority of two-thirds who are competent to call a Panchayet into should, among themselves, also own or hold not less than half the occu the wet lands under the tank.

In view of the altered definition of the word "village" we con sary to retain the proviso to this clause which is accordingly omit

*Clause* 4.—We agree in the several representations made perty qualification fixed for election as a member of a Panchay have therefore altered the limits to Rs. 20 in the case of wet or to Rs. 10 in the case of dry land-holders and to Rs. 5 in the c

payers. We have also added a provision for the election of persons who may not possess the qualification to vote under any one of these clauses but who may nevertheless, in the aggregate, contribute to Government a revenue more than any one of them taken singly. We have accordingly added a sub-clause so as to bring within the category of qualified persons those raiyats who pay in the aggregate an amount not less than Rs. 25. We have also recast sub-clauses (*a*), (*b*), and (*c*) which with the addition made by us will stand as follows:—

(*a*) pays an annual assessment of not less than Rs. 20 on wet or garden lands in the village, or

(*b*) pays an annual assessment of not less than Rs. 10 on dry lands in the village, or

(*c*) pays in the village an annual mohatarfa tax of not less than Rs. 5, or

(*d*) pays in the aggregate an amount not less than Rs. 25.

*Clause* 5.—We are of opinion that sub-clause (*a*) of this clause may be substituted by a similar provision made in Section 8 (1) (*e*) of the Village Offices Regulation, IV of 1908, *viz.*, "who has been convicted by Criminal Courts of an offence which in the opinion of the Deputy Commissioner disqualifies him for holding the office;" that sub-clause (*b*) may be omitted and replaced by the provision as to bodily or mental infirmity contained in Section 8 (1) (*c*) of the same Regulation, *viz.*, "who is not physically and mentally capable of discharging the duties of his office;" and that for sub-clause (*d*) may be substituted the corresponding provision made in Section 8 (1) (*a*) of that Regulation, *viz.*, "who is not of the male sex." We have considered it unnecessary to retain insolvency as a ground of disqualification, as it will be quite open to the electors not to select such a person, should they deem such a course necessary.

*Clause* 6.—As the clause stands at present, raiyats holding dry lands would be ineligible to vote unless thay pay mohatarfa tax also, though under clause (4) they would be eligible for being elected to the Panchayet on the ground of holding dry lands alone. The conjunction "and" occurring in this clause between the words "dry lands" and "paying mohatarfa" should therefore be substituted by "or" and the same word should also be substituted for "and" where it occurs between the words "wet" and "garden lands."

*Clause* 7.—Provision should be made here for the constitution of the Panchayet and the appointment of its members being notified in the official Gazette for general information. We have accordingly added a sub-clause to this effect and have converted the present clause into a subsidiary clause thus:—

"7(*a*) The constitution of a Tank Panchayet and the names of its members shall be notified in the official Gazette.

(*b*) The elected members of the Tank Panchayet shall hold office for a term of three years."

In this connection we observe that the Bill does not contain provisions for filling up vacancies arising in the membership of a Panchayet otherwise than by efflux of time, and for the removal of the members who become disqualified for continuing as such. We are of opinion that provisions made to this effect in Sections 16 and 18 of the Municipal Regulation, VII of 1906, may be adopted here with suitable modifications. We have therefore added the following additional clause:—

"8(*a*) The Deputy Commissioner, if he thinks fit, may, on the recommendation of a Tank Panchayet, remove any member of the Panchayet, if such member has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties.

Liability to removal from office.

(*b*) In the event of the death, resignation, disqualification, disability or removal of a member of a Tank Panchayet previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred."

Casual vacancies how to be filled up.

*Sub-clause* (1) (*f*).—We understand that no separate irrigation cess is set apart for each village and as such we are of opinion that reference made in this sub-clause to the fund collected in each village is unnecessary. We accordingly recommend that the words "collected in the village, being either the whole or portion thereof" be omitted from the sub-clause.

*Old clause 9, new clause 10.*

*Sub-clause* (2).—To make the meaning of this sub-clause clear we recommend that for the words "shall be utilised by the Panchayet in executing the annual maintenance works of the major and minor tanks" the following be substituted, *viz.*, "shall be available to the Panchayet for the maintenance and upkeep of the major and minor tanks." We have also made here some other small changes more or less of a verbal character, besides adding a provision for special repairs of minor tanks rendered necessary by unforeseen causes.

Expert opinion as to the advisability of granting tank beds for cultivation is not unanimous. We have therefore considered it necessary to subject the exercise of this power by the Panchayet to the control of the Deputy Commissioner. We have also considered it necessary to confer a substantive power on the Panchayet to exercise the rights referred to in (*c*), (*d*) and (*e*) of sub-clause (1) of old clause 9 (new clause 10). With this addition the clause will run as follows :—

*Old clause 12, new clause 13.*

"13. (1) The Panchayet shall have power to sell—

(*a*) the right of fishing in the tank under its control,

(*b*) the right of grazing in the tank bed, and the right of cutting and removing the grass on the tank bund, and

(*c*) the produce of the trees in the tank and on the bund, if any.

(2) The Panchayet shall also have power.....by it ; *provided that it shall be competent to the Deputy Commissioner to prohibit such cultivation in any tank or in any season.*"

We are of opinion that the Panchayet need have power only to regulate the issue of water from the tank, the time during which the supply of water may continue and the quantity that may be issued and that it is inexpedient to entrust it with the power of determining the time for the commencement of the sowing of wet crops which ought to be left to the discretion of each individual holder of lands under the tank. We have accordingly substituted the following for this clause :—

*Old clause 13.*
*New clause 14.*

"14. For the purpose of irrigation from the tank under its control, a Panchayet shall have power to regulate—

(*a*) the time for the commencement of the issue of water from the tank ;

(*b*) the period during which the supply of water is to continue ; and

(*c*) the quantity of water to be let out from the tank."

*Sub-clause* (1) (*a*).—This, as it stands at present, does not make it clear whether the power of the Panchayet to restrict the area of wet cultivation extends to *each individual holding* or to only a *specified portion* of the *aggregate* area. We felt that to adopt either course to the exclusion of the other would lead to practical difficulties and we therefore resolved to leave the discretion in the matter entirely to the Panchayet. Hence the addition of the words "or any of the" between the words "all" and "wet lands" in line one of this sub-clause.

*Old clause 14.*
*New clause 15.*

*Sub-clause* (1) (*b*).—As the power conferred by this sub-clause is already implied in the power to regulate the issue of water given in the previous clause we recommend that this be omitted.

*Sub-clause* (2).—For the reasons assigned for the insertion of similar provision in clause 3, we have inserted the words "holding in the aggregate not less than two-thirds of the occupied area of" after the word "holding" occurring in the last line of this sub-clause.

*Old clause 15.*
*New clause 16.*

We have recast sub-clause (1) of this clause as follows :—

"With the approval of the majority of not less than two-thirds of the raiyats, a Tank Panchayet may undertake the construction, restoration or improvement, as the case may be, of a minor tank, with the exception of the masonry and stone work."

*Old clause 16.*
*New clause 17.*

We have inserted the words "under Sections 10 and 12 of this Regulation" after the words "tank fund" occurring in line one to make it clear as to what particular items the procedure specified in the clause is to be applied.

*Old clause 18.*

We have expunged this clause as unnecessary. The provisions contained herein have been sufficiently brought out in the definition of the expression "Customary obligations".

*Old clause 19.*

We have numbered this as *Clause* 20, and added the following new clause so as to provide for the protection of the members of the Panchayet from suits for acts done by them *bona-fide* in the proper performance of their duties as such members :—

"19. No member of the Panchayet shall be liable to be sued for any act *bona-fide* done or ordered to be done in pursuance of the provisions of this Regulation." (Cf. Section 223, Land Revenue Code).

*Old clause 19.*
*New clause 20.*

We consider that provision should be made here so as to empower Government to frame rules for the guidance of Panchayets in regard to the collection of rents, etc., referred to in old clause 9 (new clause 10). We have accordingly added the following to sub-clause (2) of this clause, *viz.* :—

"(*f*) prescribe the procedure to be followed by Panchayets for collecting the receipts referred to in clauses (*a*) to (*e*) of sub-section (1) of Section 10".

The other alterations not noticed in this report are either purely verbal or consequential to those recommended above.

We recommend that the Bill as amended by the Committee be published in the Gazette for general information.

*7th August 1909.*

K. P. PUTTANNA CHETTY.
A. RANGASWAMI IYENGAR.
S. NARAYANA RAO.
D. DEVARAJ URS.
C. SRINIVASIENGAR.
M. C. RANGIENGAR.
B. NAGAPPA.

NOTE by Rajamanthrapravina Mr. C. Srinivasiengar :—

"I have still some doubts as to the practicability and suitability of the provisions contained in old clause 14 and new clause 15, but I am quite willing they should be given a fair trial before they are condemned. The restrictions embodied in the clause are a sufficient guarantee that a perpetration of irreparable mischief will not be permitted.

---

## The [Village] Tank Panchayet Bill.

*(As amended by the Select Committee.)*

*N.B.*—The portions in square brackets are those deleted by the Select Committee and those in italics newly added.

Preamble.

WHEREAS the customary obligations of raiyats in Mysore in regard to the maintenance of major tanks and the restoration, repair and maintenance of minor tanks, have not been satisfactorily carried out in the past ; and

WHEREAS this result is mainly due to the disappearance of the communal spirit among the raiyats and to the absence of sufficient inducements to make them take an interest in their tanks ; and

WHEREAS with a view to remedy these defects [and to revive the commu nal spirit among the raiyats], it is expedient to constitute [Village] Panchayets t have control over the tanks and to administer the funds that may be assigned fo their restoration, repair and maintenance;

His Highness the Maharaja is pleased to enact as follows:—

Short title. 1. (1) This Regulation may be called the "[Village] Tank Panchayet Re gulation, 19[08]".

Local extent. (2) It extends to the whole of Mysore; and

Commencement. (3) it shall come into force on the [first day of Janu ary 1909].

Definitions. 2. [(*a*)] In this Regulation, unless there is something repugnant in th subject or context—

(1) "Tank" means any source of irrigation and shall include an anikat, voddu, a talparige; and a channel whether used as a feeder, irrigatio or distribution channel and whether drawn from a tank, anikat, rive or water course.

(2) "A major tank" means a tank the annual assessment on whose irrigabl area is not less than Rs. 300 and shall also include such other tank as the Government may for any reason notify as major tanks;

All other tanks are "minor tanks."

(3) "Construction" means the creation of a new tank.

(4) "Restoration" means restoring to an efficient condition a tank whic from neglect, accident or other cause, has fallen into disuse or becom impaired or less efficient than formerly.

(5) "Improvement" means increasing the capacity of a tank so as to pro vide additional water for irrigation or otherwise rendering it mor useful for purposes of irrigation.

[(6) "Maintenance" means works of petty repair required to keep or main tain a tank at the standard of safety that may be fixed for it after it construction, restoration or improvement, and includes the follow ing:—

(i) The maintenance of the bund to the standard level and with the slope specified, the specification of the level and slope being in accordanc with the existing state of things and being approved both by th Executive Engineer and the Deputy Commissioner of the District.

(ii) The filling up of gullies or other inequalities caused by rain, the tread ing of cattle, etc., upon the bunds of tanks and channels.

(iii) The checking of the growth on bunds of prickly-pear, and any simila rank and pernicious weed.

(iv) The clearing of any underwood from the bunds of tanks wherever i may be injurious.

(v) The clearing and repair of the earthwork of petty and branch channels and the clearing away of the accumulations in sluices and in al channels issuing from tanks, which obstruct the flow of water to th fields.

(vi) The keeping in order the supply channels of tanks.

(vii) The watching of the bunds of all tanks during rainy weather, turfin the parts acted on by the waves, helping in opening and closing th sluice, and generally the performance of minor duties of this natu in order to prevent breaches and other accidents.]

[(7) "Repair" means special repairs rendered necessary by storm, flood, other unforeseen accident.]

[(8)] (*6*) "Village" includes a group of villages [for which a Village Tan Panchayet may be constituted or where such Panchayet is constitu ed for the control of a tank or group of tanks, the area compris within such limits as the Government may direct.] *or any specifi area for which a Tank Panchayet may be constituted.*

[(9) "Raiyats" shall include Pattadars, Shikmidars, Inamdars and others holding lands attached to the village, either dry, garden or wet, and inhabitants of the village and all others deriving any benefit whatever from the tank either directly or indirectly.]

*(7) The expression "customary obligations" means obligations enforceable under the Notification of the Chief Commissioner of Mysore, No. 65, dated the 2nd October 1873, as amended by Government Notification No. 5262—Agri. 626-03-7, dated the 15th December 1904, and specified in the schedule appended to this Regulation or under any other law or any rule, order or custom having the force of law.*

*(8) "Raiyats" shall mean the individuals on whom such customary obligations devolve.*

[(10)] (9) "Patel" and "Shanbhog" mean the persons officiating as patel and shanbhog, respectively, of the village, and where [a Village Tank Panchayet is constituted for a group of villages or for a tank or group of tanks,] *there are more than one such patel or shanbhog*, such one of the patels and such one of the shanbhogs, respectively, as may be selected by the Government for the purposes of this Regulation.

[*(b)* Whenever reference is made in this Regulation to the customary obligations of raiyats, in connection with the restoration, repair or maintenance of tanks, such reference shall, unless a different intention appears, be taken as applying to the obligations of raiyats as laid down in the Notification of the Chief Commissioner of Mysore, No. 65, dated the 2nd October 1873, with the alterations made therein by Government Notification No. 5262—Agri. 626-03-7, dated 15th December 1904.]

Constitution of [Village] Tank Panchayets.

3. For the effectual carrying out of the customary obligations of the raiyats in regard to the [restoration, repair and] maintenance *and upkeep* of tanks; *for facilitating the construction, restoration and improvement of tanks* and for the better regulation of the use of water from tanks for purposes of irrigation, there may be constituted for any village, where the Government may consider it expedient to do so, and where a majority consisting of not less than two-thirds of the raiyats *and holding in the aggregate not less than half the occupied area of wet lands under the tank* so desire, a [Village] Tank Panchayet composed of the patel and the shanbhog and three or more members elected by the raiyats as hereinafter prescribed.

[Provided that instead of constituting a Village Tank Panchayet for a single village, the Government may, in special cases, constitute a Village Tank Panchayet as above for any specified tank or group of tanks or for a group of villages.]

Qualifications for election to Panchayet.

4. Subject to the disqualifications mentioned in Section 5, every raiyat who

(*a*) [owns wet or garden lands in the village on which the annual assessment is not less than Rs. 50,] *pays an annual assessment of not less than Rs. 20 on wet or garden lands in the village*, or

(*b*) [owns dry lands in the village on which the annual assessment is not less than Rs. 20] *pays an annual assessment of not less than Rs. 10 on dry lands in the village*, or

(*c*) pays in the village an annual mohatarfa tax of not less than Rs. [10] *5 or*

(*d*) *pays in the aggregate an amount not less than Rs. 25,*

shall be qualified for election to the Panchayet.

Provided that the Government may, by notification published in the official Gazette, reduce, for any local area, the minimum amounts of assessment or mohatarfa tax prescribed above.

Disqualifications for election to Panchayet.

5. No person may be elected as a member of a Panchayet,

(*a*) who has been [sentenced] *convicted* by a Criminal Court [for] *of* an offence which in the opinion of *the Deputy Commissioner disqualifies him for holding the office*, [Government implies moral turpitude, such sentence not having been subsequently reversed or quashed] or

(*b*) [who has been declared an insolvent], *who is not physically and mentally capable of discharging the duties of his office*, or

(*c*) who is less than 21 years of age, or

(*d*) who is *not* of the [female] *male* sex.

Number of elected members of Panchayet.

6. The number of elected members of a [Village] Tank Panchayet shall be fixed by the Deputy Commissioner; and of the number so fixed such number, not less than one-fourth or more than one-half, as may be decided by the Deputy Commissioner, shall be elected by the raiyats holding dry lands [and] *or* paying mohatarfa but not holding wet [and] *or* garden lands, from among themselves; and the rest shall be elected by the raiyats holding wet [and] *or* garden lands with or without dry lands, from among themselves.

7. (*a*) *The constitution of a Tank Panchayet and the names of its members shall be notified in the official Gazette.*

Term of office of elected members.

(*b*) The elected members of a [Village] Tank Panchayet shall hold office for a term of three years.

*Liabilities to removal from Office.*

8. (*a*) *The Deputy Commissioner, if he thinks fit, may, on the recommendation of the Tank Panchayet, remove any member of the Panchayet, if such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct, or has become incapable of performing his duties.*

*Casual vacancies how to be filled up.*

(*b*) *In the event of the death, resignation, disqualification, disability or removal of a member of a Tank Panchayet previous to the expiry of his term of office, the vacancy shall be filled up as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred.*

Patel to be Chairman of Panchayet,

[8] 9. The Patel shall be the Chairman of the [Village] Tank Panchayet and shall conduct all correspondence on behalf of the Panchayet.

The Tank Fund.

[9] 10. (1) The Panchayet shall have control over a fund to be called the [Village] Tank Fund, made up of the following items:—

(*a*) the amounts collected from raiyats under Section [11] 12,

(*b*) the rent or value of the share of produce received under Section [12] *13*;

(*c*) the sale proceeds of the right of fishing in the tank, if any;

(*d*) the sale proceeds of the right of grazing in the tank bed and of the right of cutting and removing the grass on the tank bund;

(*e*) the sale proceeds of the produce of the trees in the tank and on the bund, if any;

(*f*) such grant out of the irrigation cess fund [collected in the village, being either the whole or a portion thereof], as the Government may, from time to time, make to the fund;

(*g*) any other grant which the Government may make to the fund;

(*h*) any advance which the Government may make to the Panchayet under Section [15] *16* for the execution of the masonry and stone work; and

(*i*) any loan which the Government may make to the Panchayet for carrying out the purposes of this Regulation.

(2) The fund shall be deposited in the Government Savings Bank or with any Agricultural Bank or Co-operative Society approved by the Deputy Commissioner, and shall be [utilized by] *available to* the Panchayet [in executing] *for* the [annual] maintenance *and upkeep* [works] of the major and minor tanks; [and the] *for special* repairs of the minor tanks *rendered necessary by unforeseen causes* [under its control] and for the construction, restoration or improvement of any minor tank, which may be entrusted to the Panchayet under Section [15] *16*.

(3) An account of the Administration of the fund during each official year shall be submitted by the Panchayet to the general body of the raiyats at a meeting to be held within one month after the close of the official year.

[10] *11.*-When a [Village] Tank Panchayet comes into existence under Section 3, the enforcement of the customary obligations of the raiyats for the [repair and] maintenance *and upkeep* of all the tanks in the village, shall thereafter vest in the Panchayet;

Consequence of Panchayet coming into existence.

Provided that the Government may exclude any tank or tanks in the village from the control of the Panchayet.

[*12*] 1 (1) The Panchayet shall have the power to apportion the work required for the [repair or] maintenance *and upkeep* of the tank or tanks under its control, among the raiyats according to their respective obligations.

Power of Panchayet to apportion repair and maintenance work among raiyats or to carry out work and recover cost from raiyats.

(2) If a raiyat fails to do the work allotted to him or prefers to commute his quota of labor into a money payment, the Panchayet shall itself get the work done out of the funds at its disposal, recovering from him the cost [of such work] *thereof* as fixed by it.

(3) For determining the amount to be recovered from a raiyat under the last preceding sub-section, the Panchayet shall have the power to fix the wages of labour per diem, subject to such maximum and minimum rates as may be laid down by the Government.

*13. (1) The Panchayet shall have power to sell—*

*(a) the right of fishing in the tank under its control,*

*(b) the right of grazing in the tank bed and the right of cutting and removing the grass on the tank bund, and*

*Power to sell right of fishing, grazing, etc.*

*(c) the produce of the trees in the tank and on the bund, if any.*

[12] (2) The Panchayet shall *also* have power to grant the bed of the tanks under its control for temporary cultivation of quick-growing crops on such terms as regards payment of rent or share of produce as may be deemed fit by it, *provided that it shall be competent to the Deputy Commissioner to prohibit such cultivation in any tank or in any season.*

Power to grant tank bed for cultivation.

[13. The Panchayet shall have power to decide on the time for commencing the sowing of wet crops on the wet lands below the tanks under its control and to regulate the issue of water for irrigation from such tanks.]

[Power of Panchayet to regulate the issue of water for irrigation.]

*14. For the purpose of irrigation from the tank under its control, a Panchayet shall have power to regulate*

*(a) the time for the commencement of the issue of water from the tank;*

*(b) the period during which the supply of water is to continue; and*

*(c) the quantity of water to be let out from the tank.*

*Power to regulate the issue of water for irrigation.*

[14] *15 (1).* A [Village] Tank Panchayet, specially empowered by Government in this behalf, may, in any year, having regard to the quantity of water available in any tank under its control,

Power to restrict wet cultivation.

(*a*) determine the portion, out of all *or any of the* wet lands in the irrigable area of such tank, to be cultivated with wet crops and confine the supply of water for irrigation to such portion;

[(*b*) refuse to allow water from the tank for the cultivation of sugarcane to all or any of the lands in its irrigable area;]

(*b*) select a compact and suitable block as near to the sluice of the tank as possible and parcel it out among the different raiyats who may be desirous of growing sugarcane on such terms as regards share of the produce to be paid to the holder or holders comprised within the block as may appear to it to be and as may be agreed to by such holder or holders.

[(c) ... as is referred to in Sub-section (1) shall be conferred on ...ayet in regard to any tank under its control except with the

[10] *11.*-When a [Village] Tank Panchayet comes into existence under Section 3, the enforcement of the customary obligations of the raiyats for the [repair and] maintenance *and upkeep* of all the tanks in the village, shall thereafter vest in the Panchayet;

Consequence of Panchayet coming into existence.

Provided that the Government may exclude any tank or tanks in the village from the control of the Panchayet.

[*12*] 1 (1) The Panchayet shall have the power to apportion the work required for the [repair or] maintenance *and upkeep* of the tank or tanks under its control, among the raiyats according to their respective obligations.

Power of Panchayet to apportion repair and maintenance work among raiyats or to carry out work and recover cost from raiyats.

(2) If a raiyat fails to do the work allotted to him or prefers to commute his quota of labor into a money payment, the Panchayet shall itself get the work done out of the funds at its disposal, recovering from him the cost [of such work] *thereof* as fixed by it.

(3) For determining the amount to be recovered from a raiyat under the last preceding sub-section, the Panchayet shall have the power to fix the wages of labour per diem, subject to such maximum and minimum rates as may be laid down by the Government.

*13. (1) The Panchayet shall have power to sell—*

*(a) the right of fishing in the tank under its control,*

*(b) the right of grazing in the tank bed and the right of cutting and removing the grass on the tank bund, and*

*Power to sell right of fishing, grazing, etc.*

*(c) the produce of the trees in the tank and on the bund, if any.*

[12] *(2)* The Panchayet shall *also* have power to grant the bed of the tanks under its control for temporary cultivation of quick-growing crops on such terms as regards payment of rent or share of produce as may be deemed fit by it, *provided that it shall be competent to the Deputy Commissioner to prohibit such cultivation in any tank or in any season.*

Power to grant tank bed for cultivation.

[13. The Panchayet shall have power to decide on the time for commencing the sowing of wet crops on the wet lands below the tanks under its control and to regulate the issue of water for irrigation from such tanks.]

[Power of Panchayet to regulate the issue of water for irrigation.]

*14. For the purpose of irrigation from the tank under its control, a Panchayet shall have power to regulate*

*(a) the time for the commencement of the issue of water from the tank;*

*(b) the period during which the supply of water is to continue; and*

*Power to regulate the issue of water for irrigation.*

*(c) the quantity of water to be let out from the tank.*

[14] *15 (1).* A [Village] Tank Panchayet, specially empowered by Government in this behalf, may, in any year, having regard to the quantity of water available in any tank under its control,

Power to restrict wet cultivation.

(*a*) determine the portion, out of all *or any of the* wet lands in the irrigable area of such tank, to be cultivated with wet crops and confine the supply of water for irrigation to such portion;

[(*b*) refuse to allow water from the tank for the cultivation of sugarcane to all or any of the lands in its irrigable area;]

[(*c*)] (*b*) select a compact and suitable block as near to the sluice of the tank as possible and parcel it out among the different raiyats who may be desirous of growing sugarcane on such terms as regards the rent or share of the produce to be paid to the holder or holders of the lands comprised within the block as may appear to it to be reasonable and as may be agreed to by such holder or holders.

(2) No such power as is referred to in Sub-section (1) shall be conferred on a [Village] Tank Panchayet in regard to any tank under its control except with the

consent of a majority of not less than two-thirds of the raiyats holding *in the aggregate not less than two-thirds of the occupied area of* wet lands under such tank.

(3) If, in accordance with a decision of the Panchayet under clause (*a*) of Sub-section (1) any land assessed as wet is not supplied with water for irrigation, the holder of such land shall be entitled to remission of half the assessment of such land.

Panchayet may be entrusted with construction, restoration and improvement of minor tank.

[15] *16.* (1) [If,] With the approval of a majority of not less than two-thirds of the raiyats [who would derive benefit from the construction, restoration or improvement of a minor tank,] a [Village] Tank Panchayet [agrees to] *may* undertake the construction, restoration or improvement, as the case may be, of (such) *a* minor tank, [the execution of all the necessary work,] with the exception of the masonry and stone work. [may be entrusted to the Panchayet].

(2) The masonry and stone work required shall be executed by the Government at its cost; but if the Panchayet undertakes to execute it, such work may also, at the discretion of the Deputy Commissioner, be entrusted to the Panchayet, the estimated cost of such work being advanced to the Panchayet by the Government.

(3) The Panchayet shall be bound to have all the work [entrusted to] *undertaken by* it executed according to the specifications and constructive details furnished by the Deputy Commissioner and within such time as may be allowed by the Deputy Commissioner.

Recovery of moneys due to Tank Fund.

[16] *17.* All moneys due to the [Village] Tank Fund *under Sections 10 and 12 of this Regulation* shall, in default of payment by the person from whom such moneys may be due, and on the application of the Panchayet, be recoverable by the Deputy Commissioner as arrears of land revenue.

Power of Government to abolish Panchayet in case of incompetency, default or abuse of powers.

[17.] *18.* (1) If, in the opinion of the Government, any Village Tank Panchayet is not competent to perform, or persistently makes default in the performance, of the duties imposed on it by or under this Regulation, or otherwise by law, or exceeds or abuses its powers, the Government may, by an order published, with the reasons for making it, in the official Gazette, abolish the Panchayet.

(2) When a Panchayet is so abolished—

(*a*) the members of the Panchayet shall, as from the date of the order, vacate their offices as such members; and

(*b*) the Deputy Commissioner shall take charge of the funds of the Panchayet, if any, and shall enforce the customary obligations of the raiyats in the same manner as if the Panchayet had not been constituted and may utilise such funds for the purposes referred to in Section [9] *10* in the same manner as the Panchayet may have utilised the same.

(3) A Panchayet thus abolished may, after such time as the Government may think fit, be reconstituted under the provisions of Section 3.

[Obligation of the raiyats under the ordinary law unaffected.]

[18. Nothing in this Regulation shall be deemed to relieve the raiyats of any of their obligations under any law, or any rule, order or custom having the force of law, in regard to the restoration, repair and maintenance of tanks.]

*Protection of members of Panchayet for acts done bona fide.*

19. *No member of the Panchayet shall be liable to be sued for any act bona fide done or ordered to be done in pursuance of the provisions of this Regulation.*

Power of Government to make rules and the matters in regard to which rules may be framed.

[19] 20. (1) The Government may, for the whole or any part of Mysore, or for any Panchayet or group of Panchayets, make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may,—

(*a*) provide for the preparation of lists of persons qualified to vote under Sections 6, [14] *15* and [15] *16* and of persons qualified for election to the Panchayet under Sections 4 and 5;

(*b*) prescribe the procedure to be adopted at meetings of voters;

(*c*) prescribe the procedure to be adopted by Panchayets at their meetings;

(*d*) prescribe the accounts and books to be kept by Panchayets and provide for the audit of such accounts;

(*e*) prescribe the accounts, returns and reports to be furnished by Panchayets.

(*f*) *prescribe the procedure to be followed by Panchayets for collecting the receipts referred to in clauses (a) to (e) of sub-section (1) of Section 10.*

## SCHEDULE.

### RULES FOR THE MAINTENANCE OF TANKS.

*Rule* 1.—The enforcement of the Rules for Tank Maintenance is entrusted to the Patel of the village to which the tank or tanks are attached.

*Rule* 2.—The individuals to be held responsible for the maintenance and upkeep of the tanks are the Pattadars, Shikmidars, Inamdars and others holding lands attached to the village, either dry or wet, inhabitants of the village, and all others deriving any benefit whatever from the tank, either directly or indirectly.

*Rule* 3.—The proportion of work to be done by each of the above indicated individuals will be decided by the Patel and Shekdar, according to the amount paid by each to the Government for lands, houses, or other property, etc., attached to the village, such proportion to be constant, no matter what quantity of work has to be carried out. Dissentients to have the ordinary right of appeal to higher authority. The proportion of work to be done by Inamdars will be fixed in the same manner; their lands, etc., being valued at the same rates as those paid for similar property belonging to Sirkar raiyats.

For the purposes of this rule, one rupee of the dry or mohatarfa assessment shall be regarded as one-third of a rupee of wet and garden assessment.

*Rule* 4.—The works falling under the head of tank maintenance as detailed in Appendix A will be ordinary earth and turf work, repairs of every description connected with the tanks and their subsidiary works; excepting such as may be specially exempted and noted in the tank book as to be kept in repair by Government.

*Rule* 5.—The above repairs shall, as a rule, be carried out simultaneously at periods to be fixed by the Patel; but when necessary (as in cases of damages done by rain, floods, etc.,) the requisition of the Patel for immediate repairs must be at once attended to.

*Rule* 6.—In case of default by any individual in the execution of his obligations, as above laid down, the Patel is empowered and required to carry out the portion of the work that ought to have been done by the defaulter, by paid labour, the cost being recovered from the defaulter as a revenue demand.

*Rule* 7.—The village Patel will be held primarily responsible that the tanks are maintained up to the standard laid down for each in the tank book, and it will be the duty of the Shekdar to satisfy himself, by personal inspection in each case that this has been done.

*Rule* 8.—A regular inspection of each tank in his taluk shall be made annually between the months of October and January by the Amildar himself, so far as is possible; otherwise by a responsible officer specially deputed for such duty by the Amildar, and the results of this inspection are to be entered in a register as per annexed form, Appendix B.

*Rule* 9.—Whenever a tank, on such inspection, is found not to be up to the standard, a second inspection is to be made of the tank, prior to the end of April, by which time the repairs must be completed, failing which, the unexecuted repairs will be carried out by the Amildar and the cost recovered from the defaulters as revenue demand.

*Rule* 10.—A duplicate copy of the register will be forwarded by the Amildar to the District Revenue Officer prior to the 1st June by which date all tank works should be completed.

*Rule* 11.—Assistant Commissioners in charge of taluks or otherwise employed in taluks, are expected during the period of Jamabandi and on other convenient occasions, personally to inspect as many tanks as possible, and test the accuracy of the taluk returns, entering the date of inspection and their remarks in the form attached to the tank book for that purpose. The result of their inspection will be communicated to the Deputy Commissioner at once on completion.

*Rule* 12.—Similar duties will be performed by the Deputy Commissioner, who will be held responsible that the abovementioned rules are duly and intelligently carried out and not allowed to become a mere form.

*Rule* 13.—Works ordered to be carried out to any tank by an officer of the Public Works Department of the Engineer grade will be done at once on that officer's responsibility. Should any portion of such work form no part of the duty of the raiyats, the usual notification of sanction for the same will be submitted by the Amildar through the proper channel. Work considered requisite, after inspection by an officer of the Public Works Department of the subordinate grade, will be reported by him without delay to his departmental superior, and in cases of urgency direct to the Amildar also.

## APPENDIX A.

(Showing the work to be done by raiyats.)

1. To maintain the bund to the standard level and with the slopes specified.

NOTE.—The specification of the level and slope must be in accordance with the existing state of things and must be approved both by the Executive Engineer and the Deputy Commissioner of the district.

2. To fill up gullies or other inequalities caused by rain, the treading of cattle, etc., upon the bunds of tanks and channels.

3. To check the growth on bunds of prickly-pear, and any similar rank and pernicious weed.

4. To clear any underwood from the bunds of tanks wherever it may be injurious.

5. To clear and repair the earthwork of petty and branch channels, and clear away the accumulations in sluices and in all channels issuing from tanks, which obstruct the flow of water to the fields.

6. To keep in order the supply channels of tanks.

7. To watch the bunds of all tanks during rainy weather, to turf the parts acted on by the waves, to help in opening and closing the sluice, and generally to perform minor duties of this nature in order to prevent breaches and other accidents.

## APPENDIX B.

Inspection Report on the tanks in the Taluk for the season ending

| Hobli | Name of village | Name of taluk | Number of tank | Date of inspection | By whom inspected | Copy of observations made in tank book | | | | | Condition of subsidiary works including feeders and distribution channels | Signature and remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Bund if level and up to bench stones of full width, clear of jungle and weeds and free from holes or not | Slopes if full and free from ruts, turfing if in good order or otherwise | Revetment in what condition | Sluice if in or out of order | Waste-weir if perfectly secure and free from leaks | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 16.

BANGALORE, THURSDAY, APRIL 21, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl.* 4967—*S. R.* 197-09, *dated 7th April* 1910.

In exercise of the powers conferred by Section 5 of the Opium Act, I of 1878, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendment in the Opium Rules published under Notification No. 8198—Ex. F. 21-97, dated the 19th May 1900, as amended by Notification No. 1243—Ex. F. 21-97, dated the 24th July 1901 :—

In line 1, clause (1), of Rule XI for the words "in quantities of not less than 24 tolas," substitute "in entire cakes of 20 tolas (more or less)."

By Order,
C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government, General and Revenue Departments.*

*No.* 231—*L. C., dated* 20*th April* 1910.

ERRATUM.

In the Report of the Select Committee appointed for the consideration of the Village Tank Panchayet Bill and the Bill as amended by them, published under ...tification No. 226—L. C., dated 1st April 1910, in the *Mysore Gazette*, dated ... April 1910, Part III, pages 22 to 33,—

*Page 29, clause 8 (a), marginal note*—
For "Liabilities" read "Liability."

*...age 30, line 7*—
For "[12] 1 (1)" read "[11] 12 (1)."

*...31, clause [17] 18 (1), 1st line*—
"Village" read "[village]."

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 17.

BANGALORE, THURSDAY, APRIL 28, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl.* 4967—*S. R.* 197-09, *dated 7th April* 1910.

In exercise of the powers conferred by Section 5 of the Opium Act, I of 1878, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendment in the Opium Rules published under Notification No. 8198—Ex. F. 21-97, dated the 19th May 1900, as amended by Notification No. 1243—Ex. F. 21-97, dated the 24th July 1901:—

In line 1, clause (1), of Rule XI for the words "in quantities of not less than 24 tolas," substitute "in entire cakes of 20 tolas (more or less)."

By Order,
C. S. Balasundaram Iyer,
*Officiating Secretary to Government, General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 20.

BANGALORE, THURSDAY, MAY 19, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl.* 5627—*S. R.* 65-09-5, *dated 14th May* 1910.

In exercise of the powers conferred by the Mysore Stamp Regulation, II of 1900, the Government of His Highness the Maharaja are pleased to order the following amendment of clause (2) of Rule 10 of the Rules under the Mysore Stamp Regulation, II of 1900, published under Government Notification No. Fl. 5821—Legis. 52-08-1, dated 8th May 1908:—

"For the words 'remitting the amount of duty paid in respect thereof' in lines 3 and 4, substitute the words 'together with the Treasury certificate of credit of the amount of duty in respect thereof.'"

By Order,

C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

**Vol. 45.] PUBLISHED BY AUTHORITY. [No. 24.**

BANGALORE, THURSDAY, JUNE 16, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

*No. Fl.* 6126—*S. R.* 235-09-3, *dated* 11*th June* 1910.

In exercise of the powers conferred by Section 29 of the Excise Regulation, V of 1901, as amended from time to time, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore hereby make the following amendments in the Arrack Rules published under Government Notification No. 11387—Ex. F. 3-1901, dated 8th January 1902:—

PART I.

*In clause II.*

Rule 3—In line 3 for "20 U. P." read "25 U. P."
In line 4 for "20 U. P." read "25 U. P."
In line 6 for "20 U. P." read "25 U. P."
Rule 4—In line 3 for "20 U. P." read "25 U. P."

*In clause IV.*

Rule 6.—For this rule substitute the following:—

"The spirits manufactured shall not be adulterated or diluted. The water required for the purpose of reducing the strength of the spirits will be that approved by Government, and it must be used at the Distillery under the supervision of the senior officer in charge.

*In clause V.*

Rule 1—For "20 U. P." read "25 U. P."
Rule 2—In line 3 for "10 U. P." read "15 U. P."
In line 4 for "15 U. P." read "20 U. P."
Rule 3—In line 2 for "20 U. P." read "25 U. P."
Rule 4—In line 2 for "10 U. P." read "15 U. P."
Rule 5—In line 1 for "20 U. P." read "25 U. P."
In line 2 for "20 U. P." read "25 U. P."
In line 2 for "20 U. P." read "25 U. P."
In line 3 for "19·5 U. P." read "24·5 U. P."
In line 4 for "20 U. P." read "25 U. P."
In line 7 for "19 U. P." read "24 U. P."
In line 8 for "20 U. P." read "25 U. P."

The rule thus amended should be read thus :—

"6. The old arrack (*i.e.*, arrack ten or more days old) shall, as a rule, be issued from the Distillery and shall be passed at 25° U. P., for depots within 50 miles, and at 24·5° U. P. for depots more than 50 miles from the Distillery, and charged for at 25° U. P. But, when owing to short stock or otherwise, such old arrack is not available and it is found necessary to issue fresh arrack, *i.e.*, arrack less than ten days old, such fresh arrack shall be passed at 24·5° U. P. for depots within 50 miles and 24° U. P. for depots more than 50 miles from the Distillery, and shall be charged for at 25° U. P."

Rule 7—In line 1 for "20 U. P." read "25 U. P."
Rule 9—In line 3 for "15 U. P." read "20 U. P."

---

*No. Fl.* 6128—*S. R.* 235-09-1, *dated* 11*th June* 1910.

Under Section 17, clause (*f*), of the Mysore Excise Regulation, as amended by Regulations IV of 1902, V of 1904, and V of 1906, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore direct that the duty to be levied from the 1st July 1910 on all spirits manufactured at the Central Distillery, Bangalore, and sold in any part of Mysore, shall be Rs 4-12-0 for a gallon of 25° U. P. and proportionately for lower or higher strengths.

---

*No. C.* 129—*S. R.* 167-09-6, *dated* 15*th June* 1910.

In exercise of the power conferred by Section 71 of the Mysore Excise Regulation, V of 1901, the Government of His Highness the Maharaja of Mysore are pleased to prohibit from and after 1st July 1910 throughout the Mysore State, the sale of any medicated article containing eucaine, beta-eucaine, lactate eucaine and holocaine, except under a license granted by the Deputy Commissioner.

By Order,
C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 25.

BANGALORE, THURSDAY, JUNE 23, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATIONS.

*No. Fl.* 6126—*S. R.* 235-09-3, *dated* 11*th June* 1910.

In exercise of the powers conferred by Section 29 of the Excise Regulation, V of 1901, as amended from time to time, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore hereby make the following amendments in the Arrack Rules published under Government Notification No. 11387—Ex. F. 3-1901, dated 8th January 1902:—

PART I.

*In clause II.*

Rule 3—In line 3 for "20 U. P." read "25 U. P."
In line 4 for "20 U. P." read "25 U. P."
In line 6 for "20 U. P." read "25 U. P."
Rule 4—In line 3 for "20 U. P." read "25 U. P."

*In clause IV.*

Rule 6.—For this rule substitute the following:—

"The spirits manufactured shall not be adulterated or diluted. The water required for the purpose of reducing the strength of the spirits will be that approved by Government, and it must be used at the Distillery under the supervision of the senior officer in charge."

*In clause V.*

Rule 1—For "20 U. P." read "25 U. P."
Rule 2—In line 3 for "10 U. P." read "15 U. P."
In line 4 for "15 U. P." read "20 U. P."
Rule 3—In line 2 for "20 U. P." read "25 U. P."
Rule 4—In line 2 for "10 U. P." read "15 U. P."
Rule 5—In line 1 for "20 U. P." read "25 U. P."
In line 2 for "20 U. P." read "25 U. P."
Rule 6—In line 2 for "20 U. P." read "25 U. P."
In line 3 for "19·5 U. P." read "24·5 U. P."
In line 4 for "20 U. P." read "25 U. P."
In line 7 for "19 U. P." read "24 U. P."
In line 8 for "20 U. P." read "25 U. P."

The rule thus amended should be read thus :—

"6. The old arrack (*i.e.*, arrack ten or more days old) shall, as a rule, be issued from the Distillery and shall be passed at 25° U. P., for depots within 50 miles, and at 24·5° U. P. for depots more than 50 miles from the Distillery, and charged for at 25° U. P. But, when owing to short stock or otherwise, such old arrack is not available and it is found necessary to issue fresh arrack, *i.e.*, arrack less than ten days old, such fresh arrack shall be passed at 24·5° U. P. for depots within 50 miles and 24° U. P. for depots more than 50 miles from the Distillery, and shall be charged for at 25° U. P."

Rule 7—In line 1 for "20 U. P." read "25 U. P."
Rule 9—In line 3 for "15 U. P." read "20 U. P."

---

*No. Fl.* 6128—*S. R.* 235-09-1, *dated* 11*th June* 1910.

Under Section 17, clause (*f*), of the Mysore Excise Regulation, as amended by Regulations IV of 1902, V of 1904, and V of 1906, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore direct that the duty to be levied from the 1st July 1910 on all spirits manufactured at the Central Distillery, Bangalore, and sold in any part of Mysore, shall be Rs. 4-12-0 for a gallon of 25° U. P. and proportionately for lower or higher strengths.

---

*No. C.* 129—*S. R.* 167-09-6, *dated* 15*th June* 1910.

In exercise of the power conferred by Section 71 of the Mysore Excise Regulation, V of 1901, the Government of His Highness the Maharaja of Mysore are pleased to prohibit from and after 1st July 1910 throughout the Mysore State, the sale of any medicated article containing eucaine, beta-eucaine, lactate eucaine and holocaine, except under a license granted by the Deputy Commissioner.

By Order,

C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 26.

BANGALORE, THURSDAY, JUNE 30, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATIONS.

*No. Fl.* 6126—*S. R.* 235-09-3, *dated 11th June* 1910.

In exercise of the powers conferred by Section 29 of the Excise Regulation, V of 1901, as amended from time to time, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore hereby make the following amendments in the Arrack Rules published under Government Notification No. 11387—Ex. F. 3-1901, dated 8th January 1902:—

PART I.

*In clause II.*

Rule 3—In line 3 for "20 U. P." read "25 U. P."
In line 4 for "20 U. P." read "25 U. P."
In line 6 for "20 U. P." read "25 U. P."
Rule 4—In line 3 for "20 U. P." read "25 U. P."

*In clause IV.*

Rule 6.—For this rule substitute the following:—

"The spirits manufactured shall not be adulterated or diluted. The water required for the purpose of reducing the strength of the spirits will be that approved by Government, and it must be used at the Distillery under the supervision of the senior officer in charge."

*In clause V.*

Rule 1—For "20 U. P." read "25 U. P."
Rule 2—In line 3 for "10 U. P." read "15 U. P."
In line 4 for "15 U. P." read "20 U. P."
Rule 3—In line 2 for "20 U. P." read "25 U. P."
Rule 4—In line 2 for "10 U. P." read "15 U. P."
Rule 5—In line 1 for "20 U. P." read "25 U. P."
In line 2 for "20 U. P." read "25 U. P."
Rule 6—In line 2 for "20 U. P." read "25 U. P."
In line 3 for "19·5 U. P." read "24·5 U. P."
In line 4 for "20 U. P." read "25 U. P."
In line 7 for "19 U. P." read "24 U. P."
In line 8 for "20 U. P." read "25 U. P."

The rule thus amended should be read thus :—

"6. The old arrack (*i.e.*, arrack ten or more days old) shall, as a rule, be issued from the Distillery and shall be passed at 25° U. P., for depots within 50 miles, and at 24·5° U. P. for depots more than 50 miles from the Distillery, and charged for at 25° U. P. But, when owing to short stock or otherwise, such old arrack is not available and it is found necessary to issue fresh arrack, *i.e.*, arrack less than ten days old, such fresh arrack shall be passed at 24·5° U. P. for depots within 50 miles and 24° U. P. for depots more than 50 miles from the Distillery, and shall be charged for at 25° U. P."

Rule 7—In line 1 for "20 U. P." read "25 U. P."
Rule 9—In line 3 for "15 U. P." read "20 U. P."

---

*No. Fl.* 6128—*S. R.* 235-09-1, *dated* 11*th June* 1910.

Under Section 17, clause (*f*), of the Mysore Excise Regulation, as amended by Regulations IV of 1902, V of 1904, and V of 1906, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore direct that the duty to be levied from the 1st July 1910 on all spirits manufactured at the Central Distillery, Bangalore, and sold in any part of Mysore, shall be Rs. 4-12-0 for a gallon of 25° U. P. and proportionately for lower or higher strengths.

---

*No. C.* 129—*S. R.* 167-09-6, *dated* 15*th June* 1910.

In exercise of the power conferred by Section 71 of the Mysore Excise Regulation, V of 1901, the Government of His Highness the Maharaja of Mysore are pleased to prohibit from and after 1st July 1910 throughout the Mysore State, the sale of any medicated article containing eucaine, beta-eucaine, lactate eucaine and holocaine, except under a license granted by the Deputy Commissioner.

By Order,

C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 28.

BANGALORE, THURSDAY, JULY 14, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No.* 252—*L. B.* 343-09-2, *dated* 12*th July* 1910.

The Government of His Highness the Maharaja of Mysore are pleased to direct that para 8 of the rules framed under the Local Boards Regulation and published with Notification No. 30—Leg. 4-03, dated the 9th September 1903, as amended by Notification No. 3188-42-2—L. B., dated the 19th October 1904, be further modified as follows:—

(i) The details for the total number of members of the Mysore District Board given therein shall be omitted.

(ii) The words "in charge of the District Treasury" shall be substituted for the words "if any, at district head-quarters not placed in Revenue charge of a taluk," occurring in clause (*b*) of the said para.

(iii) The word "Sanitation" shall be added after the words "Medical relief" in clause (*c*) of the same para. Para 8 as now altered will read as follows:—

"The District Board for the Mysore District shall consist of not less than 30 members and every other District Board shall consist of not less than 25 members made up as follows:—

*Ex-officio members.*

(*a*) The Deputy Commissioner, to be the President of the District Board.

(*b*) All Assistant Commissioners in Revenue charge of taluks in the district, as well as the Assistant Commissioner in charge of the District Treasury.

(*c*) The chief or senior officer for the district in each of the Departments of Medical relief, Sanitation, Engineering and Education (Inspection of schools).

*Other members.*

(*d*) One non-official representative from each of the taluks in the district, who shall, on the first occasion under these Rules, be appointed by Government on the recommendation of the Deputy Commissioner and thereafter be elected by the members of the Taluk Board from among their own body, or, in default of election, appointed by Government as aforesaid.

(*e*) The remainder to be appointed by Government on the recommendation of the Deputy Commissioner and drawn, as far as possible, from interests or communities in the district not already sufficiently represented and which it may be desirable to represent on the Board."

By Order,
C. S. Balasundaram Iyer,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 30.

BANGALORE, THURSDAY, JULY 28, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. L. C. 1, dated 23rd July 1910.*

A meeting of the Mysore Legislative Council will be held in the Public Offices, Bangalore, on Monday, the 15th August 1910, at 12 noon.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 33.

BANGALORE, THURSDAY, AUGUST 18, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl. 816—S. R. 167-09-8, dated 12th August 1910.*

In Government Notification No. C. 129—S. R. 167-09-6, dated the 15th June 1910, for the words "lactate eucaine" substitute "beta eucaine lactate."

By Order,

C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government, General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 34.

BANGALORE, THURSDAY, AUGUST 25, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl. 816—S. R. 167-09-8, dated 12th August 1910.*

In Government Notification No. C. 129—S. R. 167-09-6, dated the 15th June 1910, for the words "lactate eucaine" substitute "beta eucaine lactate."

By Order,

C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government, General and Revenue Departments.*

## REGULATION No. I OF 1910.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 24TH DAY OF AUGUST 1910.)

**A Regulation to provide for certain matters in connection with the taking of the Census.**

Preamble.

Whereas it has been determined to take a census of Mysore during the year 1911, and it is expedient to provide for certain matters in connection with the taking of such census; His Highness the Maharaja is pleased to enact as follows:—

Title, extent and commencement.

1. (1) This Regulation may be called "the Mysore Census Regulation, 1910."

(2) It extends to the whole of Mysore; and

(3) It shall come into force at once.

Appointment of census-officers.

2. (1) The Government may appoint any person to take, or aid in or supervise the taking of, the census within any specified local area.

(2) Persons so appointed shall be called census-officers.

(3) The Government may delegate to such authority as it thinks fit the power of appointing census-officers which is conferred by this section.

Proof of appointment of census-officers, and their status as public servants.

3. (1) A declaration in writing, signed by any officer authorised by the Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(2) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Discharge of duties of census-officers in certain cases.

4. (1) (*a*) Every officer in command of any body of men belonging to His Highness the Maharaja's Military Forces,

(*b*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(*c*) every keeper, secretary or manager of any chuttram, hotel, boarding-house, lodging-house or club, and

(*d*) every occupant of immovable property and every manager or officer of a railway or other commercial or industrial enterprise who has at the time of the taking of the census not less than twenty persons employed under him, or living on or in such property,

shall, if so required by the District Magistrate, or by such officer as the Government may appoint in this behalf, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such immovable property, as such Magistrate or officer may, by written order, direct.

(2) All the provisions of this Regulation relating to census-officers shall apply, so far as they can be made

applicable, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under Section 187 of the Indian Penal Code.

Power of District Magistrate to call upon certain persons to give assistance.

5. (1) The District Magistrate, or such officer as the Government may appoint in this behalf for any local area, may, by written order, which shall have effect throughout the limits of his district or of such local area, as the case may be, call upon—

(*a*) all owners and occupiers of land, tenure-holders, farmers, and assignees of land-revenue or their agents, and

(*b*) all village officials in alienated tracts including inam and kayamgutta villages and jahgirs,

to give such assistance as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or in the villages or other areas for which such village officials are appointed, as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers and assignees or their agents and such village officials shall be bound to obey it.

Asking of questions by census-officers.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

Occupier to allow access, and permit affixing of numbers.

8. Every person occupying any house, enclosure or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

Occupier to fill up schedule.

9. (1) Subject to such orders as the Government may issue in this behalf, any census-officer may leave, or cause to be left—

(*a*) at any dwelling-house within the local area for which he is appointed, or

(*b*) with any manager or officer of any commercial or industrial enterprise who has at the time of the taking of the census not less than twenty persons employed under him,

a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof or by such manager or officer with such particulars as the Government may direct regarding the inmates of such house or part or the persons employed under such manager or officer at the time of the taking of the census.

(2) When any such schedule has been so left, the occupier of the house or part to which it relates or the manager or officer with whom it is left shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, or the persons employed under him at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as he may direct.

10. In any of the following cases, namely :— Penalties.

(*a*) if a census-officer or a person appointed to be a census-officer or a person lawfully required to give assistance towards the taking of a census refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Regulation, or with any rule duly made thereunder,

(*b*) if a census-officer intentionally puts any offensive or improper question or knowingly makes any false return,

(*c*) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,

(*d*) if any person occupying any house, enclosure or other place refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow,

(*e*) if any person removes, obliterates, alters or injures before the eleventh day of September 1911, any letters, marks or numbers which have been painted or affixed for the purposes of the census,

(*f*) if any occupier of a dwelling-house or part thereof or any person with whom a schedule is left under section 9 knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,

he shall be punishable with fine which may extend to fifty rupees.

11. (1) The Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Regulation may be instituted. Jurisdiction in prosecutions.

(2) No prosecution under this Regulation shall be instituted except with the previous sanction of the Government, or with the previous sanction of some officer authorised by the Government in this behalf.

12. No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such officer or any schedule delivered under section 9, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1904. Records of census not open to inspection or admissible in evidence in certain proceedings.

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of Mysore during the year 1911, cause the census of the municipality to be taken wholly or in part by any method authorised by this Regulation. Temporary suspension of local enactments and rules as to mode of taking census in municipalities.

Power in regard to expenses.

14. Notwithstanding anything in any enactment or rule, in regard to municipal or local funds, the Government may direct that the whole or any part of any expenses incurred for anything done in accordance with this Regulation may be charged to any municipal or local fund constituted for, and on behalf of, the area within which such expenses were incurred.

Power to make rules.

15. (1) The Government may make rules for carrying out the purposes of this Regulation.

(2) In particular, and without projudice to the generality of the foregoing power, the Government may make rules providing—

(*a*) for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census and for the general instructions to be issued to such officers and persons,

(*b*) for the enumeration of persons employed on railways and their families and of other classes of the population for whom it may be necessary or expedient to make special provision,

(*c*) for the enumeration of persons travelling on the night when a census is taken.

T. ANANDA ROW,
*Dewan.*

---

*Statement of objects and reasons.*

This Regulation is intended to provide for the taking of a General Census in 1911. It is based on the corresponding Regulation of 1900 and on the Act recently passed by the Government of India and embodies the changes introduced into that Act on the recommendation of the select committee, for obtaining the information necessary for the preparation of a special schedule for factories, mills, mines and similar industrial concerns.

---

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 35.

BANGALORE, THURSDAY, SEPTEMBER 1, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl. 816—S. R. 167-09-8, dated 12th August 1910.*

In Government Notification No. C. 129—S. R. 167-09-6, dated the 15th June 1910, for the words "lactate eucaine" substitute "beta eucaine lactate."

By Order,

C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government, General and Revenue Departments.*

## REGULATION No. II OF 1910.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 23RD AUGUST 1910.)

## A Regulation further to amend the Mysore Military Regulation, II of 1899.

Whereas it is expedient to further amend the Mysore Military Regulation, II of 1899; His Highness the Maharaja is pleased to enact as follows :—

Preamble.

1. For the words "Imperial Service Troops" occurring in the preamble and paragraph 1 of the Regulation, the words "Imperial Service Cavalry and Transport Corps" shall be substituted, and the word "Corps" shall be inserted after the word "Transport" both in clause 2 of the preamble and in the heading below it. The word "Sepoys" occurring in paragraph 1 shall be omitted and the word "Drivers" inserted instead.

Amendment of preamble and paragraph 1 of Regulation II of 1899 as amended by Regulation V of 1900.

2. In paragraph 9, after the words "Squadron Commander" and "Section Commander," there shall be inserted the words "or Division Commander" and "or Division Dafadar," respectively.

Amendment of paragraph 9 of Regulation II of 1899.

3. Paragraph 12 shall be omitted.

Omission of paragraph 12 of Regulation II of 1899.

4. The words "Division Commanders" shall be inserted after the words "Squadron Commanders" occurring in paragraph 13, paragraph 14 and the heading under which these appear, and the words "and drivers" shall be inserted after the word "Sowars" occurring in paragraph 13.

Amendments of paragraphs 13 and 14 and the heading thereto of Regulation II of 1899.

5. Paragraphs 15, 18 and 19 shall be omitted.

Omission of paragraphs 15, 18 and 19 of Regulation II of 1899.

6. The words "for the information of Government" appearing at the end of paragraph 21 shall be omitted.

Amendment of paragraph 21 of Regulation II of 1899.

7. In paragraph 22, for the words "Troop and Transport Officers," the words "and Division Commanders" shall be substituted.

Amendment of paragraph 22 of Regulation II of 1899.

8. The words "Sepoys, Transport Lance Dafadars and" inserted in sub-para (b) of paragraph 23 by Regulation I of 1905, and sub-para (c) of the said paragraph with the amendments introduced by the said Regulation shall be repealed.

Amendment of paragraph 23 of Regulation II of 1899 as amended by I of 1905.

9. In sub-para (b) of paragraph 34, the word "Commandant's" shall be substituted for the word "Regimentdar's" wherever it occurs.

Amendment of paragraph 34 of Regulation II of 1899.

10. In paragraph 37, the words "or Division Commander" shall be inserted after the words "Squadron Commander."

Amendment of paragraph 37 of Regulation II of 1899.

11. In paragraph 67, in the second sub-heading, the word "and" occurring between the words "Non-Commissioned Officers" and "Sowars" and the words "Regimental, Transport and Hospital" in the third sub-heading shall be omitted; and the words "and Drivers" shall be inserted after the word "Sowars."

Amendment of paragraph 67 of Regulation II of 1899.

12. In paragraph 72, for the words "Imperial Service Troops" the words "Imperial Service Cavalry or Transport Corps, as the case may be" shall be substituted.

Amendment of paragraph 72 of Regulation II of 1899.

T. ANANDA ROW,
*Dewan.*

## NOTIFICATION.

*No. 59—L. C., dated 16th August 1910.*

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying report of the Select Committee on the Bill to consolidate and amend the law relating to Guardians and Wards in Mysore is published for general information.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

---

## Report of the Select Committee on the Bill to consolidate and amend the law relating to Guardians and Wards in Mysore.

We, the members of the Select Committee to whom the Bill was referred, have the honor to submit the following report :—

1. *Definitions.*—

"Minor" means a person who has not completed the age of 18 years or, if he is not domiciled in Mysore, has not attained majority according to the law to which he is subject.

(*a*) *Minor.*—We have carefully considered the question whether any change is required in the definition of the word "minor" as adopted in the Bill, and we have arrived at the conclusion that no change is called for.

The definition prescribes to all persons domiciled in Mysore a uniform limit in consonance with the accepted ideas and the prevailing practice in the State, while giving to persons temporarily residing in the country the benefit of their own personal law.

The Committee recognize that in theory there is much to be said for a higher limit, namely 21; but the State has long recognised the lower limit for various purposes, *e.g.*, Section 3 of the Mysore Registration Regulation and Section 8 (1) (*b*) of the Mysore Village Offices Regulation, a very recent enactment.

It is also to be noted that even in British India the Government have found themselves unable to raise the limit to 21 in the vast majority of cases which do not come under the provisions of either the Guardians and Wards Act, or the Court of Wards Act.

We therefore recommend that the definition in the Bill be adopted by the Council.

"'District Court,' subject to the provisions of Section 4 of this Regulation and to the provisions of Section 12 of the Mysore Chief Court Regulation, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge."

(*b*) "*District Court.*"—

For the sake of clearness, we have recast the definition of "District Court" as follows :—

"(4) 'District Court' includes a Court invested with the functions of a District Court under the provisions of Section 4 of this Regulation and also the Chief Court when exercising original civil jurisdiction under Section 12 of the Mysore Chief Court Regulation."

(c) "*Deputy Commissioner.*"—

"'Deputy Commissioner' means the chief officer in charge of the revenue administration of a district and includes any officer whom the Government, by notification in the official Gazette, may, by name or in virtue of his office, appoint to be Deputy Commissioner in any local area, or with respect to any class of persons, for all or any of the purposes of this Regulation."

The words "means the Chief Officer in charge of the revenue administration of a district and" occurring in the definition of this term are superfluous and have been removed. *Vide* the definition of the term in the Mysore General Clauses Regulation, 1899.

2. *Clause 4.*—This is a departure from the British Indian Act, VIII of 1890, on which the Bill is based, but is supported to some extent by the existing law under which a Subordinate Judge may be invested with the power of appointing a guardian to a minor. In view of the greater convenience resulting to the public residing at some distance from a District or a Subordinate Court, the Bill authorises Government to invest *any Court inferior in grade to a District Court* with jurisdiction under the Regulation.

The Committee accept the view as sound. At the same time, they entertain doubts as to whether the provisions in the proviso restricting the right of appeal from the orders of such inferior Courts to the District Court may be allowed to stand. In British India, the final Court of appeal in all cases under the Guardians and Wards Act is the High Court: and though, in the Bill, jurisdiction under the Regulation may be conferred on Courts inferior to the District Courts, we consider it desirable that the power of passing final orders in matters falling under the Regulation should be exercised by the Chief Court. To give a right of appeal first to the District Court and then to the Chief Court seems to us to be unnecessary. For these reasons, we recommend that the proviso to sub-clause (2), and sub-clause (3) be omitted.

Sub-clause (4) gives power to a District Court to withdraw and transfer cases under the Regulation, but does not confer any authority to *retransfer* cases withdrawn to the *same* Court. Such a power would be necessary in certain cases, *e.g.*, when a case has been withdrawn from the file of a Court for personal reasons relating to the presiding judge who subsequently ceases to be a Judge of that Court. With this view, we recommend that the following be added at the end of this sub-clause :—

"or retransfer them for trial or disposal to the Court from which they were withdrawn." Cf. Section 24 of the new Civil Procedure Code.

As under Section 21 of the General Clauses Regulation a power to make a rule or order under a Regulation includes also a power to add to, vary or rescind such a rule or order, we have omitted the words "and may cancel or vary such notification" from sub-clause (1) of this clause.

The whole clause as amended by us will read as follows :—

"Investiture of inferior Courts with jurisdiction of District Court for purposes of this Regulation."

"4. (1) The Government may, by notification in the Official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Regulation.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this

Regulation upon the District Court, and the provisions of this Regulation relating to the District Court shall apply to such an inferior Court as if it were a District Court.

(3) The District Court may withdraw any proceedings under this Regulation from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings *or retransfer them for trial or disposal to the Court from which they were withdrawn.*

(4) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(5) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court, shall, for the purposes of this section, be deemed to be a Court inferior in grade to a District Court."

"Finality of other orders."

"Save as provided by the last foregoing section and by Section 622 of the Code of Civil Procedure, an order made under this Regulation shall be final, and shall not be liable to be contested by suit or otherwise."

3. *Clause 47.*—Provision is made here only for a *revision* of orders passed by a Court under the Regulation. We are of opinion that provision should also be made for a *review* of such orders. We have therefore made the necessary additions to this clause, which as amended will be as follows :—

Finality of other orders.

"47. Save as provided by the last foregoing section and *by Sections 114 and 115* of the Code of Civil Procedure, an order made under this Regulation shall be final and shall not be liable to be contested by suit or otherwise."

4. *Clause 51 and item 2 of the Schedule.*—As the sections of the Civil Procedure Code intended to be amended by this clause have been incorporated in their amended form in the new Civil Procedure Code Bill about to become law, we have expunged this clause from the Bill. For a similar reason, we have omitted item No. 2 of the Schedule (enactments repealed).

5. We have also changed references in the Bill to the old Code of Civil Procedure to the corresponding sections or orders in the new Code.

6. In conclusion, we beg to recommend that the Bill as modified by us may be adopted by the Council. As the Bill has undergone very little alterations, we consider it unnecessary to reprint it with the report.

7. The following further changes more or less of a verbal character have also been made :—

(1) The words "in the case of a minor" have been prefixed to clause 5.

(2) Article "the" has been inserted between "in" and "manner" in clause 9 (1).

(3) The word "matters" has been substituted for "matter" in clause 22.

(4) The words "Order 32, Rule 4, sub-rule (2), of the Code of Civil Procedure" have been substituted for the words "Section 440 of the Code of Civil Procedure, as amended by this Regulation" at the end of sub-clause (2) of Clause 35.

(5) The word "the" has been inserted between the words "the intention of" and "Court" in sub-clause (3); and the words and figures "Rule 1 or Rule 2 of Order 39" have been substituted for "Section 492 or Section 493" in sub-clause (4) of Clause 42.

(6) The words and figures "Sections 114 and 115" have been substituted for "Section 622" in clause 47 (*vide* para 3 above).

1. K. P. PUTTANNA CHETTY.
2. H. V. NANJUNDAYYA.
3. D. SHAMA RAO.
4. S. NARAYANA RAO.
5. C. SRINIVASIENGAR.

18th July 1910.

---

I assent to the draft report, subject to the following remarks:—

1. Presumably, this Regulation is meant to apply to all persons irrespective of birth or nationality. This Regulation is a consolidating Regulation *vide* Preamble, and hence is meant to be an exhaustive treatment of all the matters that fall in its purview and hence all questions touching the guardians and wards must be settled under the provisions of this Regulation only.

But the omission of Section 2, clause (7); Section 5; Section 15, clauses (2) and (3); Section 17, clause (4) of the British Indian Act raises a doubt as to whether the legislature intends to exclude Europeans from the operation of this Regulation or whether the legislature does not want to retain the special provisions made for them in the British Indian Act, subject, of course, to the provisions of the Indian Majority Act which are made applicable thereunder to European British subjects in Native States also.

2. In the definition of "Minor," the Regulation makes a distinction between minors domiciled in Mysore, and minors not domiciled in Mysore. In the case of minors domiciled in Mysore, the age of majority is fixed at eighteen years in all cases. But, in the case of minors not domiciled in Mysore, the age of majority is to be the age of majority according to the law of the country of domicile.

The only instance in which the provisions of this Regulation are applicable to non-domicile minors is when the minor has property in Mysore, for admittedly the application for appointment of guardian of the person of the minor is to be made in the court of his domicile. To meet this solitary instance the Regulation has perpetuated the very complexities which it is the avowed object of the legislature to avoid.

Further, various complications will arise such as, whether an Indian is a minor or a major for whom a guardian has been appointed in British India before he is eighteen years of age and who according to the Indian Majority Act will be a minor till he attains twenty-one years of age; and whether to such an Indian the Mysore Courts can appoint a guardian notwithstanding he has completed eighteen years of age prior to the date of application.

Supposing an Indian for whom the British Indian Court has appointed a guardian removes his domicile from British India and resides in Mysore, whether before or after he is eighteen years of age, will the Mysore Courts regard him as still a minor, until he attains twenty-one years of age?

The Bill leaves the following questions open:—.

(1) Whether a regular suit lies for reliefs which can be sought for under the provisions of the proposed Regulation;

(2) Whether a guardian to the property of a minor coparcener in a Joint Hindu Family governed by the Mitakshara law, having no separate property of his own, can be appointed by the Court, under the proposed Regulation. The British Indian High Courts have concurred in answering the question in the negative by a process of reasoning which it is possible that the provisions of this Bill do not quite justify.

In clause 34, some amendment is needed to enable the Court in a proper case to exercise upon its own initiative the powers conferred under that clause without waiting for an application to be made by petition.

M. C. RANGIENGAR.

## NOTIFICATION.

*No. 68—L. C., dated 30th August 1910.*

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend the Government Savings Banks Act, 1873, as in force in Mysore, is published for general information with the statement of objects and reasons.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

## A Bill to amend the Government Savings Banks Act, 1873.

Whereas it is expedient to amend the Government Savings Banks Act, V of 1873, as applied to Mysore by Notification of the Government of India, Foreign Department, Judicial, No. 118, dated the 23rd June 1873: His Highness the Maharaja is pleased to enact as follows :—

Preamble.

Insertion of a new section after Section 4.

1. The following shall be inserted after Section 4, as Section 4 A, namely :—

"4, A. Notwithstanding anything contained in Section 4 or in the Indian Succession Act, X of 1865, or the Mysore Succession Certificate Regulation, VII of 1901, or any other law for the time being in force, if a depositor dies leaving any sum of money in a Government Savings Bank, the Secretary of such Bank may pay the same to the person nominated by the depositor during his lifetime and registered in the office of the Secretary under rules to be made by Government in this behalf; provided that such nomination shall not be allowed in the case of deposits belonging to minors."

Payment to nominees in certain cases.

## STATEMENT OF OBJECTS AND REASONS.

Under Section 4 of the Government Savings Banks Act, 1873, as applied to Mysore by the Government of India Notification, Foreign Department, Judicial, No. 118, dated the 23rd June 1873, when a depositor dies leaving in a Government Savings Bank Rupees one thousand or under, the Secretary of such Bank, may, if no probate of the depositor's will or letters of administration to his estate or a certificate under Act XXVII of 1860 or under Regulation VII of 1901 (the Succession Certificate Regulation) is produced within three months of the death of the depositor, make payment of the deposit to any person appearing to him to be entitled to receive it or to administer the estate of the deceased. But if the deposit exceeds Rupees one thousand, payment can be made to the heirs of the deceased only on the production of a succession certificate or probate of a will or letters of administration. This necessarily involves a certain amount of expenditure to the families of the deceased depositors at a time when they are least able to meet it. With a view to give them relief from these pecuniary burdens, it is proposed to amend the Act by providing, on the analogy of the State Life Insurance Rules, for nomination by depositors during their lifetime of the person or persons to whom they would desire payment to be made after their death. This procedure will enable the Secretary of the Bank to pay the amount of the deposit to the person or persons nominated beforehand by the depositor, and thus obviates the necessity of the heirs having to seek the aid of the Courts for recovery of the deposits.

For obvious reasons, it is not proposed to extend the provision regarding nomination to deposits belonging to minors.

## NOTIFICATION.

*No. 69—L. C., dated 30th August 1910.*

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend in certain respects the Mysore Municipal Regulation, 1906, is published for general information with the statement of objects and reasons for the same.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

## A Bill to amend the Mysore Municipal Regulation, VII of 1906.

Whereas it is expedient to amend in certain respects the Mysore Municipal Regulation, VII 1906; His Highness the Maharaja is pleased to enact as follows:—

Amendment of clause (k), sub-section (1), of Section 48.

1. In Section 48, sub-section (1), clause (*k*), after the words "providing for the exhibition of tables of octroi," the following words shall be inserted, namely:—"requiring a license to be obtained for the sale of any article liable to octroi and prescribing the conditions on or subject to which such license may be granted, refused, suspended or withdrawn."

Addition of two clauses to sub-section (1) of Section 48.

2. Clause (*w*) of sub-section (1) of Section 48 shall be numbered as clause (*y*) and there shall be inserted the following clauses after clause (*v*) of the said sub-section, namely:—

Licensing of vehicles or animals plying for hire;

"(*w*) rendering licenses necessary for the proprietors or drivers of vehicles or animals kept or plying for hire or for profit within the Municipality and prescribing the conditions on or subject to which such licenses may be granted, refused, suspended or withdrawn;

Prescribing the rates of hires for vehicles or animals hired;

"(*x*) limiting the rates which may be demanded for the hire of any carriage, cart or other conveyance, or of any animal, hired to carry loads or for the services of persons hired to carry loads and the loads to be carried by such conveyances, animals or persons, when hired within the Municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;"

Addition of a section after Section 77.

3. After Section 77, the following section shall be inserted, namely:—

Penalty for selling articles liable to octroi without a license or for being in possession of any such article on which octroi has not been paid.

"77 *A* (1) Any person selling or keeping for sale without a license any article liable to octroi for the sale of which a license is required to be obtained, or having in his possession any such article on which octroi has not been paid, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or rupees one hundred whichever may be greater; and

Seizure of articles on which octroi duty has not been paid and arrest of persons in possession of such articles.

(2) Any officer of the Municipal Council authorised by the Municipal Council in this behalf, if he has reason to believe that any such article on which octroi has not been paid, is kept or concealed in any premises, may, after obtaining the warrant of a Magistrate, enter and search at any time such premises and, if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the Municipality within twenty-four hours from the time of such seizure or arrest:

Provided also that nothing in this section shall apply to any such article not exceeding Rs. 200 in value purchased by any person for the personal use of himself or any member of his family or sold by auction consequent on the owner dying or quitting the station.

Searches and arrests to be governed by the provisions of the Criminal Procedure Code.

(3) The provisions of the Code of Criminal Procedure shall, so far as may be, apply to all searches and arrests effected under this section."

Addition of a section after Section 175.

4. After Section 175, the following section shall be inserted, namely:—

"175 *A*.—The Government may, from time to time, make rules not inconsistent with this Regulation as to the preparation of plans and estimates for works which are to be partly or wholly constructed out of the Municipal Fund and the authority by whom, and the conditions subject to, which such plans and estimates for works may be sanctioned."

Government may frame rules as to the preparation, etc., of plans and estimates for works.

Amendment of Schedule 1.

5. In Schedule 1, above the words "for every other vehicle with springs and every palanquin, bicycle or tricycle, Rs. 6" there shall be inserted the following, namely:—

| | Rs. |
|---|---|
| "For every motor car ... ... ... | ... 30 |
| For every motor cycle ... ... ... | ... 15" |

## STATEMENT OF OBJECTS AND REASONS.

The Municipal Regulation introduced into the State in 1906 has been found to be defective in some important particulars and the object of the proposed Bill is to remedy these defects.

*Clause 1.*—The old Municipal Regulation of 1871 (as amended by Regulation VII of 1899) which was in force in Bangalore and Mysore Cities prior to the introduction of the present Regulation, authorised the Municipal Councils to regulate the sale of dutiable articles by requiring licenses to be taken for their sale. As the present Regulation contains no corresponding provision and as the need for it has been felt by the Bangalore Municipal Council, it is proposed to amend suitably clause (*k*) of sub-section (1) of Section 48 of the present Regulation.

*Clause 2.*—This clause gives power to the Municipal Councils to regulate the use of carts plying for hire within the Municipal limits. The draft is based on Section 137 (*a*) and (*b*) of the Municipal Act as in force in the Civil and Military Station, Bangalore.

*Clause 3.*—The old Municipal Regulation contained a provision empowering especially authorised officers of the Municipality to seize dutiable goods that were suspected to have been smuggled. There is no provision corresponding to this in the present Regulation. This defect is now sought to be remedied by this clause. It is to be noted that the penalty of confiscation provided for in the old Act for smuggling has not been adopted, as unnecessarily stringent.

*Clause 4.*—This is based on Section 31 (*g*) of the Mysore Local Boards Regulation and supplies a defect in procedure, in regard to the sanctioning of certain major works to be undertaken by a Municipality.

*Clause 5.*—The maximum rate at which a motor car or a motor cycle can, at present, be taxed under Section 59 (ii) of the present Regulation is Rs. 6 a year. This limit is considered too low and it is proposed to fix Rs. 30 per annum for motor cars and Rs. 15 for motor cycles.

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 36.

BANGALORE, THURSDAY, SEPTEMBER 8, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. 70—L. C., dated 31st August 1910.*

1. A Bill for the regulation and control of Hackney Carriages in Mysore.
2. A Bill to amend the Mysore Local Boards Regulation, II of 1902.

Under Rule 32 of the Rules for the conduct of business of the Mysore Legislative Council, the marginally noted Bills are published for general information with the statements of objects and reasons.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

## Bill for the regulation and control of Hackney Carriages in Mysore.

WHEREAS it is expedient to provide for the regulation and control of Hackney Carriages in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Hackney Carriage Regulation, 19 ."

(2) It extends to the whole of the territories of Mysore.

(3) It shall come into force at once. But nothing herein contained shall affect any power conferred by any law relating to Municipalities or any rule made in exercise of any such power.

Repeal.

2. The Bangalore City Hackney Carriage Regulation, 1887, is hereby repealed.

Savings.

But all rules made by the Municipal Council of the City of Bangalore under the above Regulation, which may be in force at the time this Regulation comes into force shall, so far as they are not inconsistent with this Regulation, be deemed to have been made under this Regulation.

Definitions.

"Hackney Carriage."

"Committee."

3. In this Regulation—

"Hackney Carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept or offered, or plies for hire; and

"Committee" means a Committee of Municipal Councillors or the entire body of Municipal Councillors constituted under the provisions of any enactment for the time being in force.

Application of the Regulation to Municipalities.

4. The Government of Mysore may, by notification in the official Gazette, apply this Regulation to any Municipality within the territories of Mysore.

*(Section 3, Act XIV of 1879.)*

Power of Municipalities to make rules.

When the Regulation has been so applied to any Municipality, the Committee of such Municipality may, from time to time, make rules for the regulation and control of hackney carriages within the limits of such Municipality in the manner in which, under the law for the time being in force, it makes rules or by-laws for the regulation and control of other matters within its limits.

Every rule made under this section shall, when confirmed by the Government of Mysore and published for such time and in such manner as the Government may from time to time prescribe, have the force of law:

Provided that the Government of Mysore may, at any time, rescind any such rule.

*(Section 4; Act XIV of 1879 modified.)*

Power to make rules for areas outside Municipalities.

5. The Government of Mysore may, from time to time, make rules for the regulation and control of hackney carriages in any area outside the limits of a Municipality and such rules when published for such time and in such manner as the Government may from time to time prescribe, shall have the force of law.

*(Section 5, Act XIV of 1879 modified.)*

Power of a Municipal Committee to extend the operation of the rules beyond the limits of the Municipality.

6. The Committee of any Municipality making rules under this Regulation may, with the previous sanction of the Government of Mysore, extend their operation to any railway station or specified part of a road not more than six miles from the local limits of the Municipality.

*(Section 4 of Regulation I of 1887.)*

Matters as to which rules may be made.

7. The rules to be made under section 4 or section 5 may, among other matters,—

(*a*) direct that no hackney carriage, or no hackney carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf under this Regulation or within the limits of the City of Bangalore, under the Bangalore Hackney Carriage Regulation, as in force in the Civil and Military Station, Bangalore;

(*b*) direct that no person shall act as driver of a hackney carriage except under a license granted in that behalf under this Regulation or within the limits of the City of Bangalore under the Bangalore Hackney Carriage Regulation as in force in the Civil and Military Station, Bangalore;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages and the animals, harness, and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within that time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriage;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney carriage shall be bound to let or refuse to let the carriage to any person requiring the same;

(*i*) appoint places as stands for hackney carriages, and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rate or fares, as well for time as distance, which may be demanded for the hire of any hackney carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require the drivers to wear a numbered badge or ticket and to produce their licenses when required by a Magistrate or other person authorised by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges;

(*n*) provide for the deposit of property found in such carriages and the payment of a fee by the owner of such property on the delivery thereof to him; and

(*o*) prohibit the employment in hackney carriages of animals which by reason of disease, infirmity, wound, sore, or other cause are unfit for such employment.

*(Section 5 (2) of Regulation I of 1887.)*

Punishment for breach of rules.

8. (1) Any person breaking any rule made under this Regulation shall be punished with fine which may extend to fifty rupees.

*(Section 5 of Regulation I of 1887 modified.)*

Licenses when subject to revocation or suspension.

(2) A license granted under the rules under section 7 above shall be subject to revocation or suspension upon the happening of any event prescribed by the rules under which the license is granted and in the case of a license granted by the Municipal Council of the City of Bangalore, also upon the happening of any event upon which it would be so subject under the law in force in the Civil and Military Station, Bangalore.

Fees and expenses.

9. The amount of any fees received and the amount of any expenses incurred in giving effect to this Regulation shall, in any Municipality, be credited and debited, respectively, to the Municipal Fund and in any other case, to such fund as the Government may, by general or special order, direct.

Decision of disputes between hirer and owner or driver of carriage.

10. If any dispute arises between the hirer of any hackney carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Regulation, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or Bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or Bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or Bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of such Magistrate or Bench in any case under this section shall be final.

When any such case is heard by a Bench, any difference of opinion arising between the members of such

Bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

Driver to take hirer in carriage to Court of Magistrate.

11. If, at any time any dispute mentioned in section 10 arises, any Magistrate having jurisdiction in respect of such dispute is sitting, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

Penalty for injuring carriage.

12. If any person using a hackney carriage under this Regulation wilfully or negligently injures the same, he shall be punished with a fine which may extend to twenty rupees and shall also pay to the owner of the hackney carriage compensation for the injury, the amount of the compensation to be fixed by the convicting Magistrate, and to be recovered as a fine.

## STATEMENT OF OBJECTS AND REASONS.

There is no law at present applicable to the whole State for the regulation and control of the hackney carriages. The Bangalore City Hackney Carriage Regulation of 1887 applies only to that City. It is, therefore, thought desirable to enact a Regulation that could, when necessary, be applied in any part of the State. The draft Bill is, however, purely of an enabling character and does not come into force in any area unless specially extended by the Government. The Bill is based entirely on the Bangalore City Hackney Carriage Regulation which it repeals. Regular jatka services have been established between some of the railway stations and towns—for instance, between Bangalore and Chikballapur and between Bowringpet and Kolar. It is necessary to exercise some supervision over these public conveyances in the interests of public safety.

## A Bill to amend the Mysore Local Boards Regulation, II of 1902.

Whereas it is expedient to amend the Mysore Local Boards Regulation, II of 1902; His Highness the Maharaja is pleased to enact as follows :—

Short title.

1. This Regulation may be called "The Mysore Local Boards Regulation Amendment Regulation, 19 ."

Amendment of clauses (5) and (6) of Section 20.

2. In Section 20 of the Mysore Local Boards Regulation, II of 1902, there shall be inserted, (i) at the end of clause (5), the words "including tolls and fees leviable under Section 31 (A) (1) (*g*)," and (ii) in clause (6) the words " or for any of the purposes specified in Section 31 A (1) (*b*)" after the words " in a Union."

Addition of a new section.

3. After Section 31 the following section shall be added, *viz.*—

Power of District Board to make bye-laws.

" 31 A (1) The District Board may, from time to time, with the previous sanction of Government and with reference to the varying circumstances of different areas subject to its authority, make, alter or rescind bye-laws, but not so as to render them inconsistent with this Regulation or with any other general or special law ;

*(Cf. Section 350 of the Bengal Municipal Act.)*

for markets, slaughter houses, etc.

(*a*) for the general or special regulation, inspection and control of musafirkhanas, markets, slaughter houses, all places used by or for animals which are for sale or hire or the produce of which is sold, all places used for offensive or dangerous trade, cart-stands and burial and burning grounds as also for regulating the conduct of business therein and for fixing the rents and other charges to be levied for the use of any of them which belong to the District Board ;

*(Cf. Section 48 (1) (a) of the Mysore Municipal Regulation.)*

for licensing, regulating and inspecting certain business.

(*b*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the District Board—

*(Cf. Section 48 (1) (b) of the Mysore Municipal Regulation.)*

(i) as a slaughter house ;

(ii) as a market or shop for the sale of animals intended for human food or of meat or of fish or as a market for the sale of fruit or vegetables ;

(iii) as a cart-stand ;

(iv) for any of the purposes mentioned hereunder :—

(1) for boiling or storing offal, blood, bones or rags,

(2) for salting, curing and storing fish,

(3) for storing hides, horns or skins,

(4) for tanning,

(5) for the manufacture of leather or leather goods,

(6) for dyeing,

(7) for melting tallow or sulphur,

(8) for washing or drying wool or hair,
(9) as a brick, pottery or lime kiln,
(10) for soap making,
(11) for extracting oil by boiling,
(12) as a manufactory of sago,
(13) as a distillery,
(14) for storing hay, straw, fodder, wood, coal or other combustible material,
(15) as a manufactory or place of business of any other kind from which offensive or unwholesome smells arise or which may involve risk of fire,

prescribing the fees payable in respect of such licenses and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimize any injurious, offensive or dangerous effect arising or likely to arise therefrom ;

*(Cf. Section 139 of the Mysore Municipal Regulation.)*

for prohibiting use of other than public or licensed markets, slaughter houses, etc.;

(*c*) directing that no place shall be used as a market or shop for the sale of animals, meat, fish, fruit or vegetables intended for human food or as a slaughter house or as a cart-stand or as a burial and burning ground or for carrying out any of the purposes mentioned in sub-clause (iv) of clause (*b*), excepting the public markets or slaughter houses or cart-stands or burial and burning grounds constructed or opened or places set apart for carrying out any of the purposes mentioned in sub-clause (iv) of clause (*b*), by the District Board, or such other markets or slaughter houses or cart-stands or places for carrying out any of the purposes mentioned in sub-clause (iv) of clause (*b*) as may have been licensed in writing by the District Board ;

*(Cf. Section 48 (1) (c) of the Mysore Municipal Regulation.)*

for inspecting hotels, etc. ;

(*d*) providing for the inspection of hotels, bakeries, sweetmeat shops and other places for the sale of articles intended for human food or drink other than those mentioned in clause (*b*) and for securing the cleanliness of such places and the wholesomeness of the articles prepared, kept or sold therein ;

*(Cf. Section 350 of the Bengal Municipal Act.)*

for preventing nuisances in regard to water-supply ;

(*e*) regulating the use of and the prevention of nuisances in regard to public water-supply, bathing and washing places, streams, channels, tanks, and wells;

for preventing nuisance to public health ;

(*f*) preventing nuisances affecting the public health, safety or convenience ;

*(Cf. Section 48 (1) (v) of the Mysore Municipal Regulation.)*

for controlling unwieldy traffic ;

(*g*) prohibiting the transit of any vehicles of such form, construction, weight or size, or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway, or to any construction thereon or risk or obstruction to other vehicles or to pedestrians, along or over any road except on payment of such fees or tolls and under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants and otner general precautions as may be prescribed, either generally or in special licenses to be granted in each case;

for regulating District Board Administration.

(*h*) for carrying out all the purposes of this regulation.

(*Cf. Section 152 A. of the Madras Local Boards Act.*)

(*Cf. Section 350 of the Bengal Municipal Act.*)

Infringement.

And the District Board may by such bye-laws impose on offenders against the same such reasonable penalties as they think fit not exceeding the sum of fifty rupees for each offence, and in case of a continuing offence, a further penalty not exceeding ten rupees for each day after written notice of the offence by the District Board.

(*Cf. Section 48 (2) of the Mysore Municipal Regulation.*)

Publication of drafts of proposed bye-laws.

(2) The District Board shall, before making any bye-law under this section, publish in such manner as shall in their opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed bye-law, together with a notice specifying a date on or after which the draft will be taken into consideration and shall, before making the bye-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

(*Cf. Section 48 (3) of the Mysore Municipal Regulation.*)

Objections and suggestions to be submitted to Government.

(3) When any bye-law made by the District Board is submitted to Government for sanction, a copy of the notice published as aforesaid and of every objection or suggestion so made, shall be submitted for the information of the Government along with the said bye-law.

(*Cf. Section 351 of the Bengal District Municipality Act.*)

Government may sanction any bye-law or cancel its sanction.

(4) The Government may sanction any such bye-law with such modifications as it may think fit, and may at any time cancel or withdraw its sanction to any such bye-law and thereupon the bye-law shall cease to have effect."

## STATEMENT OF OBJECTS AND REASONS.

In the Local Boards Regulation, II of 1902, no provision is made for the regulation and control by the District Boards of musafirkhanas, markets, slaughter houses, hotels, etc., cart-stands, burial and burning grounds, places used for carrying on offensive and dangerous trades and the like or for the prevention of nuisances in regard to water-supply and nuisances affecting public health or for the control of unwieldy traffic. The Village Sanitation Regulation, I of 1898, and the rules framed thereunder provide for the regulation of some of these matters but they are found not to be sufficiently comprehensive or adequate to meet all cases that may arise. The object of the present measure is to give District Boards powers in regard to the matters specified above similar to those conferred on Municipal Councils by Regulation VII of 1906. The bye-laws, which may be framed by District Boards under the new provision, will be supplementary to the Rules issued under the Village Sanitation Regulation.

Clause 3 which is the most important clause in the Bill has been drafted after consulting the following analogous provisions:—

1. Sections 48 and 139 of the Mysore Municipal Regulation, VII of 1906.

2. Section 152 A of the Madras Local Boards Act, V of 1884, as amended by Acts III of 1890 and VI of 1900.

3. Sections 350 and 351 of the Bengal Municipal Act, III of 1884, as amended by Acts III of 1886 and IV of 1894.

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 37.

BANGALORE, THURSDAY, SEPTEMBER 15, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

REGULATION No. III OF 1910.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 6TH DAY OF SEPTEMBER 1910.)

**A Regulation to provide a law relating to Treasure-Trove.**

Preamble.

Whereas it is expedient to provide a law relating to Treasure-Trove in Mysore; His Highness the Maharaja is pleased to enact as follows:—

PRELIMINARY.

Short title.

1. This Regulation may be called "The Mysore Treasure-Trove Regulation, 1910."

Extent.

It extends to the whole of Mysore.

Commencement.

And it shall come into force on the date of the passing thereof.

Repeal of enactments.

2. The rules for the disposal of Treasure-Trove published under the late Mysore Chief Commissioner's Notification No. 6, dated the 17th April 1867, are hereby repealed.

Interpretation clause.

3. In this Regulation,

"Treasure." "Treasure" means anything of any value hidden in the soil, or in anything affixed thereto;

"Deputy Commissioner." "Deputy Commissioner" means (1) any Revenue Officer in independent charge of a district and (2) any officer appointed by Government to perform the functions of a Deputy Commissioner under this Regulation.

When any treasure is discovered in the course of any work done at the express or implied direction of any person, such person shall be deemed to be the finder.

"Finder."

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Regulation, be deemed to be the owner of such land or thing.

"Owner."

Where any land is the property of Government under section 36 of the Land Revenue Code, 1888, the Government shall, for the purposes of this Regulation, be deemed to be the owner of the land or thing affixed thereto.

PROCEDURE ON FINDING TREASURE.

4. Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Deputy Commissioner notice in writing—

Notice by finder of treasure.

(*a*) of the nature and amount or approximate value of such treasure;

(*b*) of the place in which it was found; and

(*c*) of the date of the finding;

and either deposit the treasure in the nearest Government Treasury, or give the Deputy Commissioner such security as the Deputy Commissioner thinks fit, to produce the treasure at such time and place as he may from time to time require.

5. On receiving a notice under section 4, the Deputy Commissioner shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):—

Notification requiring claimants to appear.

(*a*) He shall publish a notification in such manner as the Government from time to time prescribes in this behalf, to the effect that, on a certain date (*mentioning it*) certain treasure (*mentioning its nature, amount and approximate value*) was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Deputy Commissioner on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months after the date of the publication of such notification;

(*b*) When the place in which the treasure appears to the Deputy Commissioner to have been found was, at the date of the finding, in the possession of, or belonged to, some person other than the finder, the Deputy Commissioner shall also serve on such person a special notice in writing to the same effect.

6. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under section 5, shall forfeit such right.

Forfeiture of right on failure to appear.

7. On the day notified under section 5, the Deputy Commissioner shall cause the treasure to be produced before him and shall enquire as to and determine—

Matters to be enquired into and determined by the Deputy Commissioner.

(*a*) the person by whom, the place in which, and the circumstances under which, such treasure was found; and

(*b*) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

8. If upon an enquiry made under section 7, the Deputy Commissioner sees reason to believe that the treasure was hidden within one hundred years before the date of the finding by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person

Time to be allowed for suit by person claiming the treasure.

claims, the Deputy Commissioner shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant to establish his right.

Provided that in the event of the claimant succeeding in his suit, it shall be competent to the Civil Court to award the finder a reward not exceeding one-fourth the value of the treasure.

When treasure may be declared ownerless.

9. If, upon such enquiry, the Deputy Commissioner sees no reason to believe that the treasure was so hidden; or

if, where a period is fixed under section 8, no suit is instituted as aforesaid within such period to the knowledge of the Deputy Commissioner; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Deputy Commissioner may declare the treasure to be ownerless.

Appeal against such declaration.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Government;

subject to such appeal, every such declaration shall be final and conclusive.

Proceedings subsequent to declaration.

10. When a declaration has been made in respect of any treasure under section 9, such treasure shall be disposed of in accordance with the provisions hereinafter contained.

When no other person claims as owner of place, treasure to be given to finder.

11. When a declaration has been made as aforesaid in respect of any treasure and no person other than the finder of such treasure has appeared, as required by the notification published under section 5, and claimed a share as owner of the place in which it has been found or otherwise, the Deputy Commissioner shall, subject to the provisions of section 16, deliver such treasure to the finder thereof.

When only one such person claims, and his claim is not disputed, treasure to be divided.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed and the claim of such person is not disputed by the finder, the Deputy Commissioner shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely):—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, one-half of the treasure not exceeding a lakh of rupees in amount or value shall be allotted to such finder and the remainder to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith;

Provided that the Deputy Commissioner may, in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

(*a*) allot to either party the whole or more than his share of such treasure on such party paying to the Deputy Commissioner for the other party such sum of money as the Deputy Commissioner may fix as the equivalent of the share of such other party or of the excess so allotted, as the case may be; or

(*b*) with the sanction of Government, and subject to its instructions, if any, sell such treasure or any portion thereof by public auction and divide the sale proceeds between the parties according to the rule hereinbefore prescribed:

Provided also that when the Deputy Commissioner has, by his declaration under section 9, rejected any claim made under this Regulation by any person other than the said finder or person claiming as owner of the place in which the treasure was found or otherwise such division

shall not be made until after the expiration of two months without an appeal having been presented under section 9 by the person whose claim has been so rejected or, when an appeal has been so presented, after such appeal has been dismissed.

And shares to be delivered to parties.

When the Deputy Commissioner has made a division under this section, he shall deliver to the parties the portions of such treasure or the money in lieu thereof, to which they are respectively entitled under such division.

In case of dispute as to ownership of place, proceedings to be stayed.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found or otherwise, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Deputy Commissioner shall retain such treasure, and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

Settlement of such dispute.

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit, the finder of the treasure and all persons disputing such claim before the Deputy Commissioner shall be made defendants.

And division thereupon.

15. (1) If any such suit is instituted and the plaintiff's claim is finally established therein, the Deputy Commissioner shall, subject to the provisions of section 12, divide the treasure between him and the finder.

(2) If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Deputy Commissioner shall deliver the treasure, subject to the provisions of section 16, to the finder.

If value of treasure exceeds one lakh, finder to get one lakh, the excess going to Government in specified cases.

16. If, in the case referred to in section 11 or in sub-section (2) of section 15, the amount or value of the treasure found exceeds one lakh of rupees, the Deputy Commissioner shall deliver so much of the treasure as is of the amount or value of one lakh of rupees to the finder and shall declare the excess to be at the disposal of Government.

Power to acquire the treasure on behalf of Government.

17. The Deputy Commissioner may, at any time after making a declaration under section 9 and before delivering or dividing the treasure as hereinbefore provided, declare, by writing under his hand, his intention to acquire on behalf of the Government the treasure or any specified portion thereof by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons, and thereupon such treasure or portion shall be deemed to be the property of Government and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

Decision of Deputy Commissioner final and no suit to lie against him for acts done *bona fide*.

18. No decision passed or act done by the Deputy Commissioner under this Regulation shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Deputy Commissioner to exercise powers of Civil Court.

19. A Deputy Commissioner making any enquiry under this Regulation may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits; and the provisions of Chapter VII of the Code of Civil Procedure shall, so far as may be, apply to proceedings under this Regulation.

Power to make rules.

20. The Government may, from time to time, make rules, consistent with this Regulation, to regulate proceedings hereunder and, generally, all matters not provided for herein. Such rules shall, on being published in the Official Gazette, have the force of law.

PENALTIES.

Penalty on finder failing to give notice, etc.

21. If the finder of any treasure fails to give the notice or does not either make the deposit or give the security required by section 4, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure or the money in lieu thereof to which he would otherwise be entitled shall vest in the Government and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year or with fine or with both.

Penalty on owner abetting offence under section 21.

22. If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under section 21, the share of such treasure or the money in lieu thereof to which he would otherwise be entitled shall vest in the Government, and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months or with fine or with both.

T. ANANDA ROW,
*Dewan.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 38.

BANGALORE, THURSDAY, SEPTEMBER 22, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No.* 78—*L. C., dated 19th September* 1910.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying report of the Select Committee on the Code of Civil Procedure Bill is published for general information, along with the list showing the amendments made by the Select Committee therein.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

---

### Report of the Select Committee on the Code of Civil Procedure Bill.

We, the members of the Select Committee appointed for the consideration of the above Bill, have the honor to submit the following report to the Council.

The changes that we have effected, after a very careful consideration of the provisions of the Bill, are explained below :—

*Title and Preamble.*

We have substituted the word "Mysore" for the words "the territories of Mysore" wherever it occurs in the Bill as that word has been defined by the General Clauses Regulation, Section 3 (24), as meaning "the territories of Mysore."

*Definitions.*

*"Deputy Commissioner."*

We have omitted the definition of this term from the Bill, as it has been defined in the General Clauses Regulation, 1899. [*Vide* Section 3 (9)]

*"Foreign Court."*

With a view to include in the definition of this term the Civil Courts established in the Civil and Military Station of Bangalore, we have substituted the following definition for the one in the Bill :—

"Foreign Court" means a Court not established or continued by the Government of Mysore.

*"Mysore Military Forces."*

"Mysore Military Forces" means and includes the Mysore Imperial Service Cavalry and Transport Corps, the Local Service Troops, (*viz.*, the Barr and Silledar Troops) and the Palace Troops.

"Palace Troops" means—

The Body Guard (Cavalry), the Barr Battalion (Infantry), the Golundauz (Artillery), and the English Band, attached to the Palace of His Highness the Maharaja of Mysore.

*"Pleader."*

For the sake of clearness we have recast the definition of "Pleader" as follows :—

"Pleader" means any person enrolled under the law for the time being in force in Mysore relating to Legal Practitioners, and entitled to appear and plead for another in Court.

*Clause 4, Sub-clause (2).*

This has been omitted as unnecessary, as sub-clause (1) sufficiently provides for the object in view.

*Clause 7 (b).*

The reference to Section 115 made herein has been omitted as the provisions of that section are necessary until a new Small Cause Courts Regulation is passed.

*Clause 9.*

This clause as it stands in the existing Code excepts from the jurisdiction of Civil Courts "suits of which their cognizance is barred by any enactment for the time being in force" (*vide* Section 11).

But on the recommendation of the Special Committee of 1907, the British Indian legislature has substituted in their new Code for the words quoted above the following, *viz.*, "suits of which their cognizance is either expressly or impliedly barred" (*vide* Section 9, para 1 of Act V of 1908). So far as we can make out, the object of the change seems to be to make it clear that as the Civil Procedure Code is not an exhaustive enactment, there may be other bars to the entertainment of a suit in a Civil Court than a merely statutory bar; as for instance, suits that would be thrown away on the ground of the prayer in the plaint being opposed to public policy. We are of opinion that this kind of bar is not one affecting the jurisdiction of the Court to entertain and decide the suit, but refers to the validity of the claim itself under the rules of substantive law applicable to it. As the law stands at present, Courts have never felt any difficulty in practice in giving effect to such objections to the validity of claims brought before them.

It is possible, however, to conceive of a class of cases which, though not "expressly barred" in any enactment, may nevertheless be excluded from the jurisdiction of Civil Courts by reason of a necessary implication arising out of the language used in an enactment, with the object of limiting jurisdiction. Such a bar would be an "implied bar" inasmuch as it may not be stated in express terms but would still depend on the positive rule in the enactment which raises the implication.

To make this matter clear and to show that no suit of a civil nature can be excepted from the jurisdiction of a Civil Court without a bar (express or implied) created by an enactment of the legislature, we have added the words found in the existing Code "by any enactment for the time being in force."

*Clause 12.*

This has been omitted. It is unnecessary in Mysore as the Code applies to the whole State and as all the Courts in the State are subordinate to the Chief Court.

*Clause 29.*

This provision is the same as that enacted by Section 650A of the existing Code. But we are of opinion that the power granted by this clause should not be exercised by the Courts of the State without express direction from Government. We have accordingly added the following proviso to this clause as in the corresponding section of the British Indian Code, *viz.*, "provided that the Government has, by notification in the official Gazette, declared the provisions of this section to apply to such Courts."

*New Clause 44.*

We consider that provision should be made as in British India for execution in Mysore of decrees of Courts of other Native States in alliance with His Majesty. We have therefore added the following clause as clause 44, *viz.*:—

"44. The Government may, by notification in the official Gazette, declare that the decrees of any Civil or Revenue Courts situate in the territories of any Native Prince or State in alliance with His Majesty and not established or continued by the authority of the Governor-General in Council, or any class of such decrees, may be executed in Mysore as if they had been passed by the Courts in Mysore."

*Clause 54.*

The words "Gazetted subordinate of the Deputy Commissioner" have not been defined anywhere. We have therefore substituted for these words here and in other places where they occur in this Code, the words "Revenue Officer not below the rank of a Deputy Amildar," except in sub-clauses (1) (*c*), and (2) of clause 70 where for the words "any Gazetted subordinate of the Deputy Commissioner" the words "or other Revenue Officer" have been substituted.

*Clauses 55 and 60.*

(1) In the existing Code exemption from arrest in execution of a decree for debt passed by any Court of law has been granted to all persons belonging to the Mysore Silledar or Barr Force (*vide* Section 336). The Committee have accepted the suggestion made in this matter that this exemption should be extended to the members of all the Military Forces including in the meaning of this term the Palace Troops also.

Similarly, in clause 60 of the Draft Bill the exemption from attachment of pay and allowances and arms and accoutrements, etc., enjoyed by certain officers and men in the Mysore Silledar and Barr Force has been extended to all the officers and men belonging to the Mysore Military Forces. The benefit of the exemption from attachment provided for in the Draft Bill in respect of any amount payable out of a Retiring Fund (*vide* sub-clause (*r*) in the Draft Bill) to the officers and men of the Local Service and Imperial Service Regiments has likewise been extended to the officers and men of all the Military Forces in the State. We have also made an addition to *sub-clause* (*g*) of this clause, so as to give power to Government to exempt from attachment, by means of a notification in the Gazette, stipends and gratuities payable out of any Service Family Pension Fund which may hereafter be instituted.

(2) *Para* (*o*).—We have omitted this paragraph as inapplicable to this State. Section 162 of the Revenue Code is the only rule in force creating exemption from sales for the recovery of arrears of land revenue, and it contains no other exemptions than those which apply under the provisions of the Civil Procedure Code to executors of civil decrees.

(3) Under Rule 2 of the Chief Commissioner's Notification No. 266, dated 17th November 1877, all inam lands granted to religious and charitable institutions and for the maintenance of persons rendering service therein are exempt from attachment under a process issued by a Civil Court. Strictly speaking, they do not form

part of the property of the judgment-debtor at all; but to rely on this fact would often necessitate the appearance of some one on behalf of the institutions to put forward claims on their behalf. The invalidity of the attachment is, however, well known to parties, and nothing but vexatious litigation would result from such attachment being allowed. As it is reported that the practice in the Courts is not uniform in this respect, we have deemed it expedient to add a new sub-clause (*s*) giving effect to the prohibition contained in the said notification.

(4) A representation was made to us that the benefit of exemption from attachment in execution of a decree should be extended to the earnings of certain classes of persons working under the Mining Companies in the Kolar Gold Fields area. We consider it unnecessary to make any change in the law, which in this respect is the same as in British India and which would probably give rise to claims for exceptional treatment on behalf of other similar bodies.

*Sub-clause 2, clause 60.*

We have added words to para (*a*) of this sub-clause with a view to provide that the exemption from attachment conferred by the clause under certain circumstances on houses, buildings, site or land, shall not apply to cases where decrees have been obtained on a specific mortgage or charge of such houses, etc. This view is only in accordance with the existing case law on the point (*vide* Indian Law Reports, 4 Bombay 25) and obviates, in the opinion of the Committee, what would otherwise be a real hardship. The Committee see no reason why a man who first mortgages his property should afterwards turn round and claim its exemption from attachment.

*Clause 58.*

We have restored the provisions of the existing Code (Section 342) as more equitable. According to the provision in the Draft, a judgment-debtor refusing to obey the injunction of a Court granted in execution of a decree, other than for the payment of a sum of money, would be liable to detention in prison only for six weeks, even though the relief prayed for and granted in the decree and which the judgment-debtor chooses to disobey might be, for the parties, far more important than, say, a decree for the payment of a sum of rupees fifty. We are not sure that the alteration in the British Indian Code was deliberately meant, as no reason has been assigned for it.

*Proviso (a) to sub-clause 1 of clause 73.*

We have, in the interests of clearness, retained the words "as such" to be found in the existing Code between the words "mortgagee or incumbrancer shall not" and "be entitled to share."

*Clause 76.*

This clause is unnecessary as the provisions of clause 75 read with Order XXVI are adequate. Reference has been made in Rule 9 of Order XXVI, corresponding to Section 392 of the old Code, to rules being framed by Government as to the persons to whom commissions for local investigations may be issued. As a substantive provision of law enabling the Government to frame such rules is wanting, we have inserted a new clause which in place of the one repealed by us, will be numbered as clause 76 of the Bill.

"Power of Government to make rules regarding commissions for local investigations."

"76. The Government may make rules as to the persons to whom commissions to make local investigations may be issued."

15. *Clause 94 (a).*

Under clause 56 of the Code, no woman can be arrested or detained in a Civil prison *in execution of decrees for money.* We are of opinion that they should not be denied that privilege *before judgment.* We have accordingly added the following proviso to this sub-clause, *viz.*, "provided that the Court shall not order the arrest or detention of a woman in the course of a suit for recovery of money."

*Clause 98.*

There is a conflict between the Chief Court Regulation, and the Civil Procedure Code and Criminal Procedure Code at present. The Regulation requires that the case should necessarily go before a Full Bench, if there is a difference of opinion. The Civil Procedure Code gets over the difficulty by saying that if there is a conflict, the Chief Court Regulation should be followed. The Criminal Procedure Code (Section 429) says nothing about the conflict. The present practice in the Chief Court is to refer all Civil cases (of difference of opinion) to a Full Bench and to follow Section 429, Criminal Procedure Code, in Criminal cases.

As there may possibly be other Courts (though actually there are none such in Mysore now) with a plurality of Judges, the Committee consider it necessary to have these provisions in both the Procedure Codes. Section 15 of the Chief Court Regulation should likewise be retained to make the Regulation complete in itself. But it is undesirable that there should be a conflict between the different Codes. It is therefore proposed to remove the conflict in the following manner.

The Civil Procedure Code Bill, Clause 98, shall read as follows :—

Decision where appeal heard by two or more Judges.

"(98) (1) Where an appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

(2) Where there is no such majority which concurs in a judgment varying or reversing the decree appealed from, such decree shall be confirmed."

The Criminal Procedure Code, Section 429, will be left as it is.

The Chief Court Regulation, Section 15, will be amended by substituting the following for the second sentence of sub-section (3) :—

"When a Bench of the Chief Court consists of only two Judges, and there is a difference of opinion between such Judges on any material question pending before it, such question shall be disposed of in the manner prescribed in Section 98 of the Civil Procedure Code or Section 429 of the Criminal Procedure Code, as the case may be, or, at the discretion of either of the Judges composing the Bench, it shall be referred to a Full Bench and the decision of the majority of Judges on such Full Bench shall be the decision of the Chief Court" (*vide* Schedule IV, as amended by the Committee).

The provision in the Criminal Procedure Code is no doubt imperfect, as it does not provide for a Court in which there are no odd Judges. But such a difficulty is not likely to be felt here and so we may let the matter alone.

*Clause 100.*

It was suggested to the Committee that sub-clause (*d*) of this clause might be omitted in order that the law in respect of second appeals on questions of fact might be assimilated to that obtaining in British India. On a very careful consideration of the question in all its aspects, the Committee are unanimously of opinion that the existing law which has been in operation in the State for over a quarter of a century has given complete satisfaction to the people and that no sufficient reason has been shown why it should now be altered. The Committee therefore beg to recommend that this sub-clause be retained in the Bill.

*Clause 102.*

In the existing Code, a second appeal is prohibited in cases of a small cause nature whose subject matter does not exceed rupees fifty in value. This provision was of some practical utility when suits up to the value of rupees fifty were not always treated as small cause suits. But as throughout the State such suits are now treated as small cause suits, the section (Section 586) has become incapable of practical application. With a view to curtail the right of second appeal in petty suits and relieve also to some extent the congestion of work said to exist in the Chief Court, recommendations were made to the Government that the limit fixed in Section 586 might be raised to rupees five hundred as in British India. We understand that it was to meet in some measure this recommendation that it was provided in the Draft Bill that the limit should be raised to rupees one hundred

with power to Government to further raise it by means of a notification to rupees two hundred, should such a course seem to be expedient hereafter. The Committee had the advantage of perusing the statistics furnished by the Chief Court in regard to the diminution of work that would probably ensue, if the provision in the Draft Bill were allowed to take effect. It was found that the relief to the Chief Court would be quite inappreciable even if the limit were raised to rupees two hundred at once, while having regard to the average value of litigation in the State the change in the existing law would not be welcomed by the public. In these circumstances, the Committee have arrived at the opinion that it would be better to drop the clause altogether from the Bill.

*Clause 123.*

We have simplified the constitution of the Rule Committee to some extent. The British Indian High Courts are composed of a much larger number of Judges than our Chief Court. We have therefore considered it sufficient to have one Judge of the Chief Court on the Committee, and to have two Judges of the Subordinate Courts and two Advocates. Of course, the rules will be considered independently by the remaining Judges of the Chief Court also before being finally adopted.

Sub-clause (2) of this clause which provides for this will, as altered, read as follows :—

"123. (2) The Committee shall consist of the following persons, *viz.* :—

(*a*) A Judge of the Chief Court who shall be the President of the Committee.

(*b*) Two Judges of Civil Courts subordinate to the Chief Court; and

(*c*) Two Advocates enrolled in the Chief Court."

As a consequential change we have omitted a portion of the sub-clause (3). We have also omitted the provision contained in sub-clause (5) regarding the remuneration payable to the Secretary to the Committee, as it is unnecessary to provide for this in a Regulation.

*Clauses 130 and 131.*

We have added clauses 130 and 131 which seem to have been omitted in the draft by an oversight. They enable the Chief Court to make *Practice Rules.*

*Clause 137 (2).*

As there is only one language which is recognised in this country, we consider it unnecessary to retain the last two lines of this sub-clause and we have omitted them accordingly.

We have also omitted sub-clause (3) of clause 138, as under the Mysore General Clauses Regulation a power to make orders, rules or bye-laws includes the power to add to, amend, vary or rescind such order, rule or bye-laws (*vide Section 21*).

*Clause 152A.*

Provision has been made in Rule 66A of Order XXI for protecting Judges from actions in regard to acts done by them in the discharge of their duty. Being a substantive provision of law, we have transferred it to the body of the Code as clause 152A instead of retaining it in the schedule.

We take this opportunity of recommending that the Judicial Officers' Protection Act, XVIII of 1850, of the Government of India which is a very simple and short enactment and which extends protection to many other Judicial Officers also may be introduced into this State at an early date.

SCHEDULE I.

*Order 1, Rule 11.*

This rule may more appropriately form part of Rule 10 (*vide* Section 32 of the existing Code). We have also made a slight change in the wording of the rule.

*Order V, Rule 25.*

This is the same as old Section 89. We consider that the proviso may be omitted and re-enacted into a separate rule (Rule 26), as has been done in the British Indian Code, as follows :—

"Service in foreign territory through a Court or other authority."

"26. Where Government has, by notification in the official Gazette, declared that any summons issued under this Code may be served by any Court or authority of the place where the defendant is residing, the summons may be sent to such Court or authority by post or otherwise for the purpose of being served upon the defendant; and if the Court or authority returns the summons with an endorsement signed by the Judge or other officer of the Court or authority that the summons has been served upon the defendant in manner hereinbefore directed; such endorsement shall be evidence of the service." As now framed it allows Government to ascertain what foreign Courts are willing and competent to render such help and to notify the classes and names of such tribunals in a notification in the Gazette.

*Rule 27.*

The words "not belonging to the Mysore Military Forces" have been added after "Public Officer" in Rule 27 as is done in British India so as to exclude the case of such officers, the procedure for service of summons on whom is provided for separately in the next following rule.

*Rule 28.*

We have also inserted the words "in the Mysore Military Forces" after the word "soldier" in Rule 28, so as to make the meaning clear.

*Order VII, Rule 10 (1).*

We have recast this as follows so as to make the meaning clear, *viz.*, "10 (1). If, at any stage of the suit, the Court finds that it should have been instituted in another Court, the plaint shall be returned to be presented to such Court."

*Order XVI, Rule 2 (3).*

The authority to fix the scale of expenses to be paid to witnesses is left undetermined. We consider that this power should rest with the Government. We have accordingly substituted the following for this sub-rule.

(3) "In fixing the scale of expenses, regard shall be had to any rules made by Government in that behalf."

*Rule 16 (2).*

To ensure that the power conferred on the Courts by this sub-rule may not be exercised without sufficient discrimination, we have added the words "if sufficient cause is shown," between the words "may" and "require."

*Rule 19 (b).*

We have omitted the words "or steamer" and "or other established public conveyance" occurring here as unnecessary at present.

*Order XXI, Rule 48 (3).*

To sub-rule (3) of this rule an addition has been made (restoring what is contained in British Indian Code) so as to make the provisions of the clause apply to cases where the judgment-debtor though residing outside Mysore yet receives a salary or allowances out of Mysore revenues or the funds of a Railway Company or local authority carrying on business within the limits of Mysore. Such a provision seems to be necessary. The sub-rule will now read as follows :—

"(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the Government or the Railway Company or local authority, as the case may

be, while the judgment-debtor is within the limits of Mysore and while he is beyond those limits, if he is in receipt of any salary or allowances payable out of Mysore revenues, or the funds of a Railway Company carrying on business within the jurisdiction of the Government of Mysore or local authority in Mysore; and the Government, Railway Company or local authority, as the case may be, shall be liable for any sum paid in contravention of this rule."

*Rule 66 (2).*

The provision regarding notice contained in this sub-rule appears to us to introduce an innovation into the existing procedure which may retard instead of facilitating the disposal of execution petitions, as it requires that a special notice shall be given to the judgment-debtor immediately prior to the actual drawing up of a proclamation by the ministerial officers of the Court.

If, however, all that is intended in the new rule is the giving of an opportunity to the judgment-debtor to be heard regarding the terms proposed to be embodied in the sale proclamation, then there is no need for a new provision, as the existing practice of our Courts based on the Rules of Practice Nos. 28, dated 8th March 1880, and 32, dated 22nd September 1880, make adequate provision. We, therefore, recommend that the words "shall be drawn up after notice to the decree-holder and the judgment-debtor and" occurring herein be omitted.

*Rule 71.*

The words "or to the Deputy Commissioner, as the case may be," have been omitted. It is clear that their retention in the British Code was an oversight. When decrees are transferred to Deputy Commissioners for execution, the procedure applicable is to be found in the third schedule, or in rules to be framed by Government under Section 70 of the Code.

*Order XXVI, Rule 4 (3).*

We have omitted this sub-rule as we cannot conceive of any case of a commission issued under this Code being made returnable to a Court other than the Court issuing it. The retention of the corresponding provision in the existing Code seems to be due to an oversight. In the Civil Procedure Code of 1859 there was need for such a provision (*vide* Section 177 of Act 8 of 1859), as under that Code Courts inferior in grade to a principal Civil Court in a District had no power to issue a commission. But the provision for the return of a commission to another Court ought to have been but was not removed, when subsequently all Civil Courts were empowered to issue commissions.

*Rule 14.*

We consider it necessary that the Court ordering a partition (especially of houses in crowded localities) should be entrusted with a very wide discretion as to the mode in which the partition is to be actually effected. Representations have been made in the Representative Assembly regarding certain cases of hardship in the Mysore City consequent on the enforcement of building bye-laws issued by the City Improvement Trust Board. We, therefore, recommend that the Partition Act, 1893, of the Government of India which provides facilities in the matter may be introduced into this State. We consider it inexpedient to introduce the provisions of that Act into the Code.

*Order XXXIII, Rules 6 and 9.*

As the Government have not appointed any Government Pleader in Mysore, we have substituted the words "Deputy Commissioner" for the words "Government Pleader" in the Rules. This will be in accordance with the existing practice as laid down in the present Code.

*Order XXXIV.*

The chief difficulty that occurred to us in respect of this order was, whether it would not create a revolutionary change in the manner of realising mortgage debts. what is done at present in most of such cases is that the bonds contain a personal

agreement to pay and the creditor asks for and obtains a decree to enable him to recover the money due both from the mortgaged property and personally from the debtor. The time for payment contemplated by this order is generally not fixed at all by the decree, and the decree-holder is left free to bring the mortgaged property to sale or to proceed against the debtor personally or against his property at any time after the decree or in any order he pleases. Under Rule 6 of this order, the Court can pass a decree against the person of the debtor only after it has been found that the mortgaged property has not realised enough at a sale. If this rule applied to all cases, the change would no doubt be revolutionary, as it would prevent the creditor who may have taken an insufficient security relying on the personal solvency of the debtor also, from taking any steps to protect his interest, till the lapse of a considerable period after the decree.

We find however that the proposed procedure is not meant to affect such cases These limitations will not apply to cases in which a personal decree has been *asked for and obtained*. The period of six months is the maximum period allowed to be fixed for payment, and the Court may fix any shorter period according to the largeness of the sum, the value of the security and other circumstances.

These considerations go to show that there is not much risk in retaining the provisions of this order. It is however to be feared that Courts may drift into the habit of considering that the rules of procedure assume a change in the *substantive law* and that whatever the terms of the bond and the claims may be, they should invariably follow this procedure literally. There is also a risk that inexperienced pleaders not realising the significance of the omission to ask for a personal decree may neglect to do so and draw up plaints in close adherence to the rules in question, which of course should be restricted only to cases to which they properly apply.

To guard against all this, it is considered sufficient to add a cautionary rule as rule 14 as follows :—

Savings

14. "Nothing in this order shall be construed to give any party a remedy to which he has not got by his contract or the law applicable thereto, or take away or in any manner limit any remedy that he is entitled to under such contract or such law."

*Order XXXVII, Rule 1.*

We have omitted the last three paras of this rule as unnecessary and have made a verbal change in para 1.

*Order L.*

For the sake of clearness, we have recast the first para of Rule 1 of this order as follows :—

Small Cause Courts.

"1. The provisions hereinafter specified shall not extend to Courts of Small Causes constituted under any law for the time being in force in Mysore or to Courts exercising the jurisdiction of a Court of Small Causes, that is to say :—"

A few verbal changes have been made to correct obvious errors in the Bill as originally published, but they are unimportant and do not call for any remarks.

As the chief alterations effected by us in the Bill are few, we deem it unnecessary to republish the Bill.

As we could not submit the report to the Council within the time originally fixed, an extension of time was kindly granted by the Dewan up to the end of September 1910.

H. V. NANJUNDAYYA.
S. NARAYANA RAO.
C. SRINIVASIENGAR.
M. C. RANGIENGAR.
D. VENKATRAMAIYA.

14th September 1910.

## LIST SHOWING THE AMENDMENTS MADE BY THE SELECT COMMITTEE ON THE CODE OF CIVIL PROCEDURE BILL.

[N. B.—The portions in square brackets are those deleted by the Committee and those in italics newly added.]

*Clause 1.*

1. (1) This [Act] *Regulation* may be cited as "the Code of Civil Procedure, 19 ."

Short title, commencement and extent.

(2) It shall come into force on the first day of [January] 19

(3) It shall extend to the whole of [the territories of] Mysore.

*Clause 2.*

2. In this Regulation, unless there is anything repugnant in the subject or context,—

Definitions.

* * * *

[(3) (A) "Deputy Commissioner" includes every officer performing the duties of a Deputy Commissioner:]

* * * *

(5) "Freign Court" means a Court [situate beyond the limits of the territories of Mysore] *not established or continued by the Government of Mysore:*

* * * *

*(13A) "Mysore Military Forces" means and includes the Mysore Imperial Service Cavalry and Transport Corps; the Local Service Troops (viz., the Barr and Silledar Troops) and the Palace Troops.*

*(14A) "Palace Troops" means the Body Guard (Cavalry), the Barr Battalion (Infantry), the Golundauz (Artillery), and the English Band, attached to the Palace of His Highness the Maharaja of Mysore.*

(15) "Pleader" means any person *enrolled under the law for the time being in force in Mysore relating to Legal Practitioners, and* entitled to appear and plead for another in Court [,and enrolled under the law for the time being in force in the territories of Mysore relating to Legal Practitioners]:

* * * *

(17) "Public officer" means a person falling under any of the following descriptions, namely:—

(*a*) every Judge;

(*b*) *every Commissioned or Gazetted officer in the Mysore Military Forces*;

[*b*] (*c*) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret or to preserve order, in the Court, and every person especially authorized by a Court of Justice to perform any of such duties;

[*c*] (*d*) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

[*d*] (*e*) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

[*e*] (*f*) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue process, or to investigate, or to report on, any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government; and

[*f*] (*g*) every officer in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty:

* * * *

*Clause 3.*

"3. For the purposes of this Code, [the] *every* District Court is subordinate to the Chief Court, and every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the Chief Court and *the* District Court."

Subordination of Courts.

*Clause 4.*

"4. (1) In the absence of any specific provision to the contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force."

Savings.

[(2) In particular and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land.]

*Clause 5 (2).*

"(2) 'Revenue Court' in sub-section (1) means a Court having jurisdiction under any [local] law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits or proceedings as being suits or proceedings of a civil nature."

*Clause 7.*

"7. The following provisions shall not extend to Courts of Small Causes constituted under any law for the time being in force in [the State] *Mysore* or to [other] Courts exercising the jurisdiction of a Court of Small Causes, that is to say,—

Small Cause Courts.

(*a*) so much of the body of the Code as relates to—

(*i*) suits excepted from the cognizance of a Court of Small Causes;

(*ii*) the execution of decrees in such suits;

(*iii*) the execution of decrees against immovable property; and

(*b*) the following sections, that is to say,—

section 9,

sections 91 and 92,

sections 94 and 95 so far as they relate to injunctions and interlocutory orders, and

sections 96 to 108 [and 115.]"

*Clause 9.*

"9. The Courts shall (subject to the provisions herein contained) have jurisdiction

Courts to try all civil suits unless barred.

to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred *by any enactment for the time being in force.*

*Explanation.*—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies."

*Clause 10.*

"10. No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in [the territories of] Mysore having jurisdiction to grant the relief claimed.

Stay of suit.

*Explanation.*—The pendency of a suit in a foreign Court does not preclude the Courts in [the territories of] Mysore from trying a suit founded on the same cause of action."

*Clause 12.*

[12. Where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action in any Court to which this Code applies.]

Bar to further suit.

*Clause 13 (f).*

"(*f*) where it sustains a claim founded on a breach of any law in force in [the territories of] Mysore."

*Explanation to clause 16.*

"*Explanation.*—In this section "property" means property situate in [the territories of] Mysore."

*Explanation II to clause 20.*

"*Explanation II.*—A corporation shall be deemed to carry on business at its sole or principal office in [the territories of] Mysore or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place."

*Clause 23.*

"23. (1) Where the several Courts having jurisdiction are subordinate to the same Appellate Court, an application under section 22 shall be made to the Appellate Court."

To what Court application lies.

(2) Where such Courts are subordinate to different Appellate Courts [but to the

Chief Court], the application shall be made to the [said] Chief Court.

*Clause 29.*

"29. Summonses issued by any Civil or Revenue Court situate beyond the limits of [the territories of] Mysore may be sent to the Courts in [the territories of] Mysore and served as if they had been issued by such Courts:

Service of foreign summonses.

*Provided that the Government has, by notification in the official Gazette, declared the provisions of this section to apply to such Courts.*"

*Clause 43.*

"43. A decree of any Civil or Revenue Court in British India or of any Civil or Revenue Court established by the Governor-General of India in Council in [the territories of] Mysore or in the territories of any Foreign Prince or State which cannot be executed within the jurisdiction of the Court by which it was [made] *passed* may be executed in manner herein provided within the jurisdiction of any Civil Court or of any Revenue Court specially directed by Government in this behalf in [the territories of] Mysore."

Decrees of certain Courts to be executed in Mysore.

*Clause 44.*

"*44. The Government may, by notification in the official Gazette, declare that the decrees of any Civil or Revenue Courts situate in the territories of any Native Prince or State in alliance with His Majesty and not established or continued by the authority of the Governor-General in Council, or any class of such decrees may be executed in Mysore as if they had been passed by the Courts in Mysore.*"

*Execution of decrees passed by Courts of other Native States.*

*Clause 48.*

LIMIT OF TIME FOR EXECUTION.

"48. (1) Where an application to execute a decree not being a decree granting an injunction has been made, no order for the execution of the same decree shall be made upon any fresh application presented after the expiration of twelve years from—

Execution barred in certain cases.

(*a*) the date of the decree sought to be executed, or,

(*b*) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect

of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed [—]

[(*a*)] to preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application. [; or]

[(*b*) to limit or otherwise affect the operation of Article 180 of the second schedule to the Indian Limitation Act, 1877.]"

*Clause 54.*

"54. Where the decree is for the partition of an undivided estate assessed to the payment of revenue to the Government, or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share shall be made by the Deputy Commissioner or any [gazetted subordinate of the Deputy Commissioner] *revenue officer not below the rank of a Deputy Amildar* deputed by him in this behalf, in accordance with the law (if any) for the time being in force relating to the partition, or the separate possession of shares, of such estates."

Partition of estate or separation of share.

*Proviso 5 to sub-clause (1) of clause 55 (re Arrest and detention).*

"Provided, fifthly, that no person who belongs to the Mysore [Silhedar or Barr] *Military* Forces shall, so long as he belongs to such Force, be liable to be arrested for debt under any process issued by the authority of any Court of law."

*Clause 58 (1).*

"58. (1) Every person detained in the civil prison in execution of a decree shall be so detained,—

Detention and release.

(*a*) where the decree is for the payment of a sum of money *not* exceeding fifty rupees, for a period of six [months] *weeks* and,

(*b*) in any other case, for a period of six [weeks] *months*:

Provided that he shall be released from such detention before the expiration of the said period of six [months] *weeks* or six [weeks] *months* as the case may be,—

(i) on the amount mentioned in the warrant for his detention being

paid to the officer in charge of the civil prison, or

(ii) on the decree against him being otherwise fully satisfied, or

(iii) on the request of the person on whose application he has been so detained, or

(iv) on the omission by the person, on whose application he has been so detained, to pay subsistence allowance:

Provided, also, that he shall not be released from such detention under clause (ii) or clause (iii), without the order of the Court."

*Clause 60.*

ATTACHMENT.

"60. (1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Property liable to attachment and sale in execution of decree.

Provided that the following particulars shall not be liable to such attachment or sale, namely:—

(*a*) the necessary wearing apparel cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(*b*) tools of artizans, and where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;

(*c*) houses and other buildings (with the materials and the sites thereof and the land immediately

appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him;

(*d*) books of account;

(*e*) a mere right to sue for damages;

(*f*) any right of personal service;

(*g*) stipends and gratuities allowed to pensioners of the Government *or payable out of any service family pension fund notified in the official Gazette by Government in this behalf* and political pensions;

(*h*) allowances (being less than salary) of any public officer or of any servant of a railway company or local authority while absent from duty;

(*i*) the salary or allowances equal to salary of any such public officer or servant as is referred to in clause (*h*), while on duty, to the extent of—

(i) the whole of the salary, where the salary does not exceed twenty rupees monthly;

(ii) twenty rupees monthly, where the salary exceeds twenty rupees and does not exceed forty rupees monthly and

(iii) one moiety of the salary in any other case;

(*j*) the pay and allowances of persons to whom the Indian Articles of War [and the Mysore Military Regulation, 1899,] apply *and of those belonging to the Mysore Military Forces*;

(*k*) the wages of labourers and domestic servants whether payable in money or in kind;

(*l*) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(*m*) a right to future maintenance;

(*n*) any allowance declared by any law passed by the Government of Mysore to be exempt from liability to attachment or sale in execution of a decree; [and]

[(*o*) where the judgment-debtor is a person liable for the payment of land-revenue, any movable property which, under any law for the time being applicable to him,

is exempt from sale for the recovery of an arrear of such revenue;]

[(p)] (o) the arms, horse, clothes, equipments, regimental accoutrements and necessaries of the members of the Mysore [Silhedar and Barr] *Military* Forces, [and the pay and allowances or any part thereof of such members below the rank of a jamadar in a Silhedar Force and below the rank of a Subedar in a Barr Force];

[(q)] (p) where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or persons entitled to such bonus under the said rules;

[(r)] (q) any amount payable by the Military Department to the *members of the Mysore Military Forces* [officers and men of the Local and Imperial Service Regiments in Mysore] out of a Retiring Fund; *and*

*(r) all Inam lands granted to religious and charitable institutions and for the maintenance of persons rendering service therein.*

*Explanation.*—The particulars mentioned in clauses (g), (h), (i), (j), (k), (n), (p), (q) *and* (r) [and the pay and allowances specified in clause (p)] are exempt from attachment or sale whether before or after they are actually payable.

(2) Nothing in this section shall be deemed—

(a) to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land, or *in execution of decrees for enforcing a mortgage or charge in respect of such house, building, site or land, or*

(b) to affect the provisions of the Army Act, [1881], or of any similar law for the time being in force."

*Clause 70.*

"70. (1) The Government may make rules consistent with the aforesaid provisions—

Rules of procedure.

* * * *

(*b*) conferring upon the Deputy Commissioner or any [gazetted subordinate of the Deputy Commissioner] *revenue officer not below the rank of a Deputy Amildar* all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Deputy Commissioner;

(*c*) providing for orders made by the Deputy Commissioner or [any gazetted subordinate of the Deputy Commissioner] *other revenue officer*, or orders made on appeal with respect to such orders, being subject to appeal to, and revision by, superior revenue authorities as nearly as may be as the orders made by the Court, or orders made on appeal with respect to such orders, would be subject to appeal to, and revision by, appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Deputy Commissioner.

(2) A power conferred by rules made under sub-section (1) upon the Deputy Commissioner, or [any gazetted subordinate of the Deputy Commissioner] *other revenue officer*, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court."

Jurisdiction of Civil Courts barred.

*Proviso* (*a*) *to sub-clause* (*1*) *of clause 73.*

DISTRIBUTION OF ASSETS.

"73. (1) Where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons.

Proceeds of execution sale to be rateably distributed among decree-holders.

Provided as follows:—

(*a*) Where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer *as such* shall not be entitled to share in any surplus arising from such sale;"

* * * *

*Clause 76.*

"76. [(1) A commission for the examination of any person may be issued to any Court (not being the Chief Court) having jurisdiction in the place in which the person to be examined resides.

Commission to another Court.

(2) Every Court receiving a commission for the examination of any person under sub-section (1) shall examine him or cause him to be examined pursuant thereto, and the commission, when it has been duly executed, shall be returned together with evidence taken under it to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order.]

*"The Government may make rules as to the persons to whom commissions to make local investigations may be issued."*

*"Power of Government to make rules regarding commissions for local investigations."*

*Clauses 77 and 78.*

"77. In lieu of issuing a commission the Court may issue a letter of request to examine a witness residing at any place not within [the territories of] Mysore."

Letter of request.

"78. The provisions as to the execution and return of commissions for the examination of witnesses shall apply to commissions issued by Courts situate beyond the limits of [the territories of] Mysore."

Commissions issued by foreign Courts.

*Clause 89.*

ARBITRATION.

"89. (1) Save in so far as is otherwise provided by any [other] law for the time being in force, all references to arbitration whether by an order in a suit or otherwise, and all proceedings thereunder, shall be governed by the provisions contained in the Second Schedule.

Arbitration.

(2) The provisions of the Second Schedule shall not affect any arbitration pending at the commencement of this Code but shall apply to any arbiration after that date under any agreement or reference made before the commencement of this Code."

*Clause 94.*

"94. In order to prevent the ends of justice from being defeated, the Court may, if it is so prescribed,—

Supplemental proceedings.

(*a*) issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance, and if he fails to comply with any order for security, commit him to the civil prison: *provided that the Court shall not order the arrest or detention of a woman in the course of a suit for recovery of money;*

(*b*) direct the defendant to furnish security to produce any property belonging to him and to place the same at the disposal of the Court or order the attachment of any property;

(*c*) grant a temporary injunction and in case of disobedience commit the person guilty thereof to the civil prison and order that his property be attached and sold;

(*d*) appoint a receiver of any property and enforce the performance of his duties by attaching and selling his property;

(*e*) make such other interlocutory orders as may appear to the Court to be just and convenient."

*Clause 98.*

"*98. (1) Where an appeal is heard by a bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such judges or of the majority (if any) of such Judges.*

*Decision where appeal heard by two or more Judges.*

*(2) Where there is no such majority which concurs in a judgment varying or reversing the decree appealed from, such decree shall be confirmed.*"

*Clause 102.*

[102. No second appeal shall lie in any suit of the nature cognizable by Courts of

No second appeal in certain suits.

Small Causes, when the amount or value of the subject-matter of the original suit does not exceed one hundred rupees:

Provided that the Government may, by notification in the official Gazette, extend the provisions of this section to such suits, the amount or value of the subject-matter of which does not exceed two hundred rupees.]

*Clause 115.*

"115. The Chief Court may call for the record of any case which has been decided by any Court subordinate to [such] *the* Chief Court and in which no appeal lies thereto, and if such subordinate Court appears—

Revision.

(*a*) to have exercised a jurisdiction not vested in it by law, or

(*b*) to have failed to exercise a jurisdiction so vested, or

(*c*) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the Chief Court may make such order in the case as it thinks fit."

*Clauses 123 and 124.*

"123. (1) A Committee to be called the Rule Committee, shall be constituted at Bangalore.

Constitution of the Rule Committee.

(2) The Committee shall consist of the following persons, namely:—

(*a*) [not less than two Judges] *a Judge* of the Chief Court, *who shall be the President of the Committee*;

(*b*) [a Judge of a subordinate Civil Court] *two Judges of Civil Courts subordinate to the Chief Court*; *and*

[(*c*) the Government Advocate; and]

[(*d*)] (*c*) [an advocate of] *two advocates enrolled in* the Chief Court.

(3) The members of [such] *the* Committee shall be appointed by the Chief Judge. [who shall also nominate one of their number to be President:

Provided that, if the Chief Judge elects to be himself a member of the Committee, he shall be the President of the Committee.]

(4) Each member of [such] *the* Committee shall hold office for such period as may be prescribed by the Chief Judge in

this behalf; and whenever any member retires, resigns, dies or ceases to reside in [the territories of] Mysore or becomes incapable of acting as a member of the Committee, the [said] Chief Judge may appoint another person to be a member in his stead.

(5) There shall be a Secretary to [such] *the* Committee, who shall be appointed by the Chief Judge. [and shall receive such remuneration as may be provided in this behalf by the Government.]

Committee to report to Chief Court.

124. [Every] *The* Rule Committee shall make a report to the Chief Court on any proposal to annul, alter or add to the rules in the First Schedule or to make new rules, and before making any rules under Section, 122, the Chief Court shall take such report into consideration."

*Clauses 130 and 131.*

*Power to make rules as to matters other than procedure.*

"130. *The Chief Court shall have power to call for returns and may, with the previous sanction of Government, prescribe forms and make and issue any rules regulating its own practice and the practice of the Civil Courts subject to its superintendence with respect to any matter other than procedure.*"

*Publication of rules.*

131. "*Rules made in accordance with Section 130 shall be published in the official Gazette and shall, from the date of publication or from such other date as may be specified, have the force of law.*"

*Clauses 137 and 138.*

Language of subordinate Courts.

"137. (1) The language which, on the commencement of this Code, is the language of any Court subordinate to the Chief Court shall continue to be the language of such subordinate Court until the Government otherwise directs.

(2) The Government may declare what shall be the language of any such Court [and in what character applications to and proceedings in such Court shall be written.]

(3) Where this Code requires or allows anything other than the recording of evidence to be done in writing in any such Court, such writing may be in English; but if any party or his pleader is unacquainted with English a translation into the language of the Court shall, at his request, be supplied to him; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation."

"138. (1) The Government may, by notification in the official Gazette, direct with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall be taken down by him in the English language and in manner prescribed.

Power for Government to require evidence to be recorded in English.

(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

[(3) The Government may, by notification published in the official Gazette, revoke or vary a direction notified under sub-section (1).]"

*Clause 152 A.*

"*152 A. No Judge or other public officer shall be answerable for any error, misstatement or omission in any proclamation of sale issued under the provisions of this Code, unless the same has been committed or made dishonestly.*"

Indemnity of Judges, etc.

## SCHEDULE I.

*Order I, Rules 10 and 11.*

"10. (1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may, at any stage of the suit, if satisfied that the suit has been instituted through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff, upon such terms as the Court thinks just.

Suit in name of wrong plaintiff.

(2) The Court may at any stage of the proceedings either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Court may strike out or add parties.

(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

Where defendant added, plaint to be amended.

(4) Where a defendant is added the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.

(5) Subject to the provisions of [the Indian Limitation Act, 1877] *the Mysore Limitation Regulation*, Section 22, [as applicable to Mysore], the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.

[11] (6) The Court may give the conduct of the suit to such [person] *plaintiff or defendant* as it deems proper."

Conduct of suit.

*Order III, Rule 3.*

"3. (1) Processes served on the recognized agent of a party shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

Service of process on recognized agent.

(2) The provisions for the service of process on a party to a suit shall apply to the service of process on his recognized agent."

*Order V, Rules 25 to 28.*

"25. Where the defendant resides out of [the territories of] Mysore, and has no agent in [the territories of] Mysore, empowered to accept service, the summons shall be addressed to the defendant at the place where he is residing and sent to him by post, if there is postal communication between such place and the place where the Court is situate.

Service where defendant resides out of [the territories of] Mysore and has no agent.

[Provided that if there is a British Resident or Agent or a Superintendent appointed by the British Government or a Court established or continued by the authority of the Governor-General in Council in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident, Agent or Superintendent or the Judge of the Court

returns the summons with an endorsement under his hand that the summons has been served upon the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service.]"

*Rule 26.*

26. "*Where Government has by notification in the official Gazette declared that any summons issued under this Code may be served by any Court or authority of the place where the defendant is residing, the summons may be sent to such Court or authority by post or otherwise for the purpose of being served upon the defendant; and if the Court or authority returns the summons with an endorsement signed by the Judge or other Officer of the Court or authority that the summons has been served upon the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service.*"

Service in foreign territory through a Court or other authority.

"27. Where the defendant is a public officer *not belonging to the Mysore Military Forces* or is the servant of a railway company or local authority, the Court may, if it appears to it that the summons may be most conveniently so served, send it for service on the defendant to the head of the office in which he is employed, together with a copy to be retained by the defendant."

Service on civil public officer or on servant of railway company or local authority.

"28. Where the defendant is an officer or a soldier *in the Mysore Military Forces* the Court shall send the summons for service to his commanding officer together with a copy to be retained by the defendant."

Service on officer and soldiers.

*Order VII, Rule 10 (1).*

"10. (1) [The plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.] *If, at any stage of the suit, the Court finds that it should have been instituted in another Court, the plaint shall be returned to be presented to such Court.*"

Return of plaint.

*Order XI, Rule 10.*

10. No exceptions shall be taken to any affidavit in answer, but the sufficiency [or otherwise] of any such affidavit objected to as insufficient shall be determined by the Court.

No exception to be taken.

*Order XVI, Rule 2.*

"2 (1) The party applying for a summons shall, before the summons is granted and within a period to be fixed, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

Expenses of witness to be paid into Court on applying for summons.

(2) In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

Experts.

(3) [Where the Court is subordinate to a Chief Court regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf] *In fixing the scale of such expenses, regard shall be had to any rules made by Government in that behalf.*"

Scale of expenses.

*Order XVI, Rule 16.*

"16. (1) A person so summoned and attending shall, unless the Court otherwise directs, attend at each hearing until the suit has been disposed of.

When they may depart.

(2) On the application of either party and the payment through the Court of all necessary expenses (if any), the Court may, *if sufficient cause is shown*, require any person so summoned and attending to furnish security to attend at the next or any other hearing or until the suit is disposed of and, in default of his furnishing such security, may order him to be detained in the civil prison."

*Order XVI, Rule 19.*

"19. No one shall be ordered to attend in person to give evidence unless he resides—

No witness to be ordered to attend in person unless resident within certain limits.

(*a*) within the local limits of the Court's ordinary original jurisdiction, or

(*b*) without such limits but at a place less than fifty or (where there is railway [or steamer] communication [or other established public conveyance] for five-sixths of the distance between the place where he resides and the place where the Court is situate) less than

two hundred miles distance from the Court-house."

*Order XX, Rule 18.*

"18. Where the Court passes a decree for the partition of property or for the separate possession of a share therein, then,—

Decree in suit for partition of property or separate possession of a share therein.

(1) if and in so far as the decree relates to an estate assessed to the payment of revenue to the Government, the decree shall declare the rights of the several parties interested in the property, but shall direct such partition or separation to be made by the Deputy Commissioner or any [gazetted subordinate of the Deputy Commissioner] *Revenue officer not below the rank of a Deputy Amildar* deputed by him in this behalf, in accordance with such declaration and with the provisions of Section 54;"

* * *

*Order XXI, Sub-Rule (4) of Rule 33.*

"(4) Any money ordered to be paid under this rule may be recovered as though it were payable under *a* decree for the payment of money."

*Rule 48.*

"48. (1) Where the property to be attached is the salary or allowances of a public officer or of a servant of a railway company or local authority, the Court, whether the judgment-debtor or *the* disbursing officer is or is not within the local limits of the Court's jurisdiction, may order that the amount shall, subject to the provisions of Section 60, be withheld from such salary or allowances either in one payment or by monthly instalments as the Court may direct; and, upon notice of the order to such officer as the Government may by notification in the official Gazette appoint in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Court the amount due under the order, or the monthly instalments, as the case may be.

Attachment of salary or allowances of public officer or servant of railway company or local authority.

(2) Where the attachable proportion of such salary or allowances is already being withheld and remitted to a Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by the Government in this behalf shall forthwith return the subsequent order to the Court issuing it with a full statement of all the particulars of the existing attachment.

(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the Government or the Railway Company or local authority, as the case may be, while the judgment-debtor is within the [local limits to which this Code for the time being extends] *limits of Mysore and while he is beyond those limits, if he is in receipt of any salary or allowances payable out of Mysore Revenues, or the funds of a Railway Company carrying on business within the jurisdiction of the Government of Mysore, or local authority in Mysore*; and the Government or the Railway Company or local authority, as the case may be, shall be liable for any sum paid in contravention of this rule."

*Rule 49.*

"(4) Every application for an order under sub-rule (2) shall be served on the judgment-debtor and on his partners, or such of them as are within [the territories of] Mysore.

(5) Every application made by any partner of the judgment-debtor under sub-rule (3) shall be served on the decree-holder and on the judgment-debtor, and on such of the other partners as do not join in the application and as are within [the territories of] Mysore.

* * *

*Rule 50 (1).*

"50. (1) Where a decree has been passed against a firm, execution may be granted—

Execution of decree against firm.

(*a*) against any property of the partnership;

(*b*) against any person who has appeared in his own name under Rule 6 or Rule 7 of Order XXX or who has admitted on the pleadings that he is, or who has been adjudged to be, a partner;

(*c*) against any person who has been individually served as a partner with a summons and has failed to appear:

Provided that nothing in this sub-rule shall be deemed to limit or otherwise affect the provisions of Section 247 of the Indian Contract Act, 1872, as [applicable] applied to Mysore."

*Rule 52.*

"52. Where the property to be attached is in the custody of any Court or public officer, the attachment shall

Attachment of property in custody of Court or public officer.

be made by a notice to such Court or officer requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice is issued:

Provided that, where such property is in the custody of a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment *or* attachment or otherwise, shall be determined by such Court."

*Rules 66 and 66A.*

"66. (1) Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court.

Proclamation of sales by public auction.

(2) Such proclamation [shall be drawn up after notice to the decree-holder and the judgment-debtor and] shall state the time and place of sale, and specify as fairly and accurately as possible—

(a) the property to be sold:

* * *

* * *

[66A. No Judge or other Public Officer shall be answerable for any error, misstatement or omission in any proclamation under Rule 66, unless the same has been committed or made dishonestly.]

Indemnity of Judges, etc.

*Rule 71.*

"71. Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Court [or to the Deputy Commissioner, as the case may be,] by the officer or other person holding the sale, and shall, at the instance of either the decree-holder or the judgment-debtor, be recoverable from the defaulting purchaser under the provisions relating to the execution of a decree for the payment of money."

Defaulting purchaser answerable for loss on resale.

*Order XXII, Rule 9.*

"9. (1) Where a suit abates or is dismissed under this Order, no fresh suit shall be brought on the same cause of action.

Effect of abatement or dismissal.

(2) The plaintiff or the person claiming to be the legal representative of a deceased plaintiff or the assignee or the receiver

in the case of an insolvent plaintiff may apply for an order to set aside the abatement or dismissal; and if it is proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

(3) "The provisions of Sections *4 and* 5 of *the Mysore Limitation Regulation* [Indian Limitation Act, 1877, as extended to Mysore,] shall apply to applications under Sub-Rule (2)."

*Order XXV, Rule 1.*

*Security for Costs.*

"1. (1) Where, at any stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of [the territories of] Mysore, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immovable property within [the territories of] Mysore other than the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time fixed by it, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

When security for costs may be required from plaintiff.

(2) Whoever leaves [the territories of] Mysore under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of [the territories of] Mysore within the meaning of Sub-Rule (1).

Residence out of [the territories of] Mysore.

(3) On the application of any defendant in a suit for the payment of money, in which the plaintiff is a woman, the Court may, at any stage of the suit, make a like order if it is satisfied that such plaintiff does not possess any sufficient immovable property within [the territories of] Mysore."

*Order XXVI, Rules 3, 4, 5, 7 and 17.*

"3. A commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute *it*."

Where witness resides within Court's jurisdiction.

"4. (1) Any Court may in any suit issue a commission for the examination of—

Persons for whose examination commission may issue.

(a) any person resident beyond the local limits of its jurisdiction;"

(b) any person who is about to leave such limits before the date on which he is required to be examined in Court; and

(c) any civil or military officer of the Government who cannot, in the opinion of the Court, attend without detriment to the public service.

(2) Such commission may be issued to any Court, not being the Chief Court, within the local limits of whose jurisdiction such person resides, or to any pleader or other person whom the Court issuing the commission may appoint.

"[(3) The Court on issuing any commission under this rule shall direct whether the commission shall be returned to itself or to any subordinate Court.]"

"5. Where any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within [the territories of] Mysore is satisfied that the evidence of such person is necessary, the Court may issue such commission or a letter of request."

Commission or request to examine witness not within [the territories of] Mysore.

"7. Where a commission has been duly executed, it shall be returned, together with the evidence taken under it to the Court from which it was issued, [unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order]; and the commission and the return thereto and the evidence taken under it shall (subject to the provisions of the next following rule) form part of the record of the suit."

Return of commission with depositions of witnesses.

"17. (1) The provisions of this Code relating to the summoning, attendance and examination of witnesses, and to the remuneration of and penalties to be imposed upon witnesses, shall apply to persons required to give evidence or to produce documents under this Order whether the commission in execution of which they are so required has been issued by a Court situate within or by a Court situate beyond the limits of

Attendance and examination of witnesses before Commissioner.

[the territories of] Mysore, and for the purposes of this rule the Commissioner shall be deemed to be a Civil Court."

* * *

*Order XXIX, Rule 2.*

"2. Subject to any [statutory] provision *of law* regulating service of process, where the suit is against a corporation, the summons may be served—

Service on corporation.

(*a*) on the secretary, or on any director, or other principal officer of the corporation, or

(*b*) by leaving it or sending it by post addressed to the corporation at the registered office, or if there is no registered office then at the place where the corporation carries on business."

*Order XXX, Rules 1 (1), 3 and 4 (1).*

"1. (1) Any two or more persons claiming or being liable as partners and carrying on business in [the territories of] Mysore may sue or be sued in the name of the firm (if any) of which such persons were partners at the time of the accruing of the cause of action, and any party to a suit may in such case apply to the Court for a statement of the names and addresses of the persons who were, at the time of the accruing of the cause of action, partners in such firm, to be furnished and verified in such manner as the Court may direct."

Suing of partners in name of firm.

"3. Where persons are sued as partners in the name of their firm, the summons shall be served either—

Service.

(*a*) upon any one or more of the partners, or

(*b*) at the principal place at which the partnership business is carried on within [the territories of] Mysore upon any person having, at the time of service, the control or management of the partnership business there,

as the Court may direct; and such service shall be deemed good service upon the firm so sued, whether all or any of the partners are within or without [the territories of] Mysore.

Provided that, in the case of a partnership which has been dissolved to the knowledge of the plaintiff before the institution of the suit, the summons shall be served upon every person within [the territories of] Mysore whom it is sought to make liable."

"4. (1) Notwithstanding anything contained in Section 45 of the Indian Contract Act, 1872, as [applicable] *applied* to Mysore, where two or more persons may sue or be sued in the name of a firm under the foregoing provisions and any of such persons dies, whether before the institution or during the pendency of any suit, it shall not be necessary, to join the legal representative of the deceased as a party to the suit."

Right of suit on death of partner.

*Order XXXI, Rule 2.*

"2. Where there are several trustees, executors or administrators, they shall all be made parties to a suit against one or more of them.

Joinder of trustees, executors and administrators.

Provided that the executors who have not proved their testator's will, and trustees, executors and administrators outside [the territories of] Mysore need not be made parties."

*Order XXXII, Rules 4 (1), 9 (1) and 16.*

"4. (1) Any person who is of sound mind and has attained majority may act as next friend of a minor or as his guardian for the suit:

Who may act as next friend or be appointed guardian for the suit.

Provided that the interest of [a] such *a* person is not adverse to that of the minor and that he is not, in the case of *a* next friend, a defendant, or, in the case of a guardian for the suit, a plaintiff."

"9. (1) Where the interest of the next friend of a minor is adverse to that of the minor or where he is so connected with a defendant whose interest is adverse to that of the minor as to make it unlikely that the minor's interest will be properly protected by him, or where he does not do his duty, or, during the pendency of the suit, ceases to reside within [the territories of] Mysore, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court, if satisfied of the sufficiency of the cause assigned, may order the next friend to be removed accordingly, and make such other order as to costs as it thinks fit."

Removal of next friend.

"16. Nothing in this Order shall be construed to affect or in any way derogate from the provisions of any *other* law for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind.

Savings.

*Order XXXIII, Rules 6 and 9.*

"6. Where the Court sees no reason to reject the application on any of the grounds stated in Rule 5, it shall fix a day (of which at least ten days' clear notice shall be given to the opposite party and the [Government Pleader] *Deputy Commissioner*) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing any evidence which may be adduced in disproof thereof."

Notice of day for receiving evidence of applicant's pauperism.

"9. The Court may, on the application of the defendant, or of the [Government Pleader,] *Deputy Commissioner* of which seven days' clear notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

Dispaupering.

(*a*) if he is guilty of vexatious or improper conduct in the course of the suit;

(*b*) if it appears that his means are such that he ought not to continue to sue as a pauper; or

(*c*) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter."

*Order XXXIV, Rules 5 (1) and 14.*

"5. (1) Where on or before the day fixed the defendant pays into Court the amount declared due as aforesaid, together with such subsequent costs as are mentioned in Rule 10, the Court shall pass a decree—

Final decree in suit for sale.

(*a*) ordering the plaintiff to deliver up the documents which under the terms of the preliminary decree he is bound to deliver up,

and, if so required,

(*b*) ordering him [if necessary] to re-transfer the mortgaged property as directed in the said decree,

and, also, if necessary,

(*c*) ordering him to put the defendant in possession of the property."

"*14. Nothing in this order shall be construed to give any party a remedy which he has not got by his contract or the law applicable thereto, or to take away or in any manner limit any remedy that he is entitled to under such contract or such law.*"

*Order XXXV, Rule 4.*

"4. (1) At the first hearing the Court may—

Procedure at first hearing.

(*a*) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit; or

(*b*) if it thinks that justice or convenience so require, retain all parties until the final disposal of the suit.

(2) Where the Court finds that the admissions of the parties or other evidence enable it to do so, it may adjudicate the title to the thing claimed.

(3) Where the admissions of the parties do not enable the Court so to adjudicate, it may direct—

(*a*) that *an issue or* issues between the parties be framed and tried, and

(*b*) that any claimant be made a plaintiff in lieu of or in addition to the original plaintiff,

and shall proceed to try the suit in the ordinary manner."

*Order XXXVII, Rules 1 and 2 (1).*

"1. This order shall apply only to Courts having ordinary original civil jurisdiction to which the Government may, by notification in the official Gazette, [supply them.] *apply it.*

Application of Order.

[In case of such application, the Government may direct by whom any of the powers and duties incident to the provision so applied shall be exercised and performed and make any rules which it thinks requisite for carrying into operation the provisions so applied.

Within one month after such notification has been published, such provision shall apply accordingly and the rules so made shall have the force of law.

The Government may alter or cancel such notification.]"

"2. (1) [In any Court to which this order applies,] All suits upon bills of exchange, hundis or promissory notes may, in case the plaintiff desires to proceed hereunder, be instituted by presenting a plaint in the form prescribed; but the summons shall be in Form No. 4 in Appendix B or in such other form as may be from time to time prescribed."

Institution of summary suits upon bills of exchange, etc.

*Order XXXVIII, Rule 1 (b).*

"1. Where at any stage of a suit, other than a suit of the nature referred to in Section 16, clauses (*a*) to (*d*), the Court is satisfied, by affidavit or otherwise,—

Where defendant may be called upon to furnish security for appearance.

(*a*) * * * * * * *

(*b*) that the defendant is about to leave [the territories of] Mysore under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit."

*Order XLI, Rule 9 (2) and Rule 10.*

"9 (2) Such book shall be called the Register of Appeals."

Register of Appeals.

"10 (1) The Appellate Court may, in its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both :

Appellate Court may require appellant to furnish security for costs:

Provided that the Court shall demand such security in all cases in which the appellant is residing out of [the Territories of] Mysore and is not possessed of any sufficient immovable property within [the Territories of] Mysore other than the property (if any) to which the appeal relates.

Where appellant resides out of [the Territories of] Mysore.

(2) Where such security is not furnished within such time as the Court orders, the Court shall reject the appeal."

*Order L, Rule 1 (first para.)*

1. The provisions hereinafter specified shall not extend to Courts of small causes constituted under [the] *any* law for the time being in force in *Mysore* [the State relating to the constitution of Small Cause Courts] or to Courts exercising the jurisdiction of a Court of Small Causes [under the same] that is to say—

Small Cause Courts.

* * * * * * *

## APPENDIX A.

WRITTEN STATEMENTS, GENERAL DEFENCES.

* * * * *

Limitation. (4). The suit is barred by article or article of the second schedule to the [Indian Limitation Act, 1877, as applicable to Mysore.] *Mysore Limitation Regulation.*

* * * * * * *

No. 11.

DEFENCE TO SUIT FOR FORECLOSURE.

1. The defendant did not execute the mortgage.

2. The mortgage was not transferred to the plaintiff *(if more than one transfer is alleged, say which is denied.)*

3. The suit is barred by article of the second schedule to the [Indian Limitation Act, 1877, as applicable to Mysore.] *Mysore Limitation Regulation.*

* * * *

No. 12.

DEFENCE TO SUIT FOR REDEMPTION.

1. The plaintiff's right to redeem is barred by article of the second schedule to the [Indian Limitation Act, 1877, as applicable to Mysore.] *Mysore Limitation Regulation.*

* * * *

No. 15.

PROBATE OF WILL IN SOLEMN FORM.

1. The said will and codicil of the deceased were not duly executed according to the provisions of the Indian Succession Act, 1865, as [extended] *applied* to Mysore.

* * * *

---

## APPENDIX B.

No. 9.

ORDER FOR TRANSMISSION OF SUMMONS TO BE SERVED ON A PUBLIC SERVANT, *Officer* OR SOLDIER.

(O. 5, rr. 27, 28.)

*(Title.)*

* * * * *

---

## APPENDIX E.

[No. 28.]

[NOTICE OF THE DAY FIXED FOR SETTLING A SALE PROCLAMATION. (O. 21, r. 66.)

*(Title.)*

To , Judgment-debtor.

WHEREAS in the above-named suit the decree-holder has applied for the sale of ; You are hereby informed that the day of 19 has been fixed for settling the terms of the proclamation of sale.

GIVEN under my hand and the seal of the Court, this day of 19

*Judge.*]

## THE SECOND SCHEDULE.

*Arbitration.*

Power of Court to appoint arbitrator in certain cases.

5. (1) In any of the following cases, namely :—

(*a*) Where the parties cannot agree within a reasonable time with respect to the appointment of an arbitrator, or the person appointed refuses to accept the office of arbitrator, or

(*b*) where an arbitrator or umpire—

(i) dies, or

(ii) refuses or neglects to act or becomes incapable of acting, or

(iii) leaves [the territories of] Mysore in circumstances showing that he will probably not return at an early date, or

(*c*) where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so,

any party may serve the other party or the arbitrators, as the case may be, with a written notice to appoint an arbitrator or umpire.

## THE THIRD SCHEDULE.

*Rule 7, Sub-Rule (4).*

(4) In proceeding under this paragraph the Deputy Commissioner shall be subject to such rules consistent with this Regulation as may, from time to time, be made in this behalf by the [Chief controlling Revenue authority.] *Government.*

## THE FOURTH SCHEDULE.

*(See Section 155.)*

ENACTMENTS AMENDED.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | Regulation No. | Short title | Amendment |
| *1890* | *II* | *A Regulation to amend the Mysore Chief Court Regulation, I of 1884.* | *For the second sentence in sub-section (3) of Section 15, the following shall be substituted, namely :—*<br><br>*"When a Bench of the Chief Court consists of only two Judges, and there is a difference of opinion between such Judges on any material question pending before it, such question shall be disposed of in the manner prescribed in Section 98 of the Civil Procedure Code or Section 429 of the Criminal Procedure Code, as the case may be, or, at the discretion of either of the Judges composing the Bench, it shall be referred to a Full Bench and the decision of the majority of the Judges on such Full Bench shall be the decision of the Chief Court."* |

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 39.

BANGALORE, THURSDAY, SEPTEMBER 29, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No.* 83—*L. C., dated 26th September* 1910.

(ERRATUM.)

In the Report of the Select Committee appointed for the consideration of the Code of Civil Procedure Bill and the list of amendments to the Bill made by them and published under Notification No. 78—L. C., dated 19th September 1910, in the *Mysore Gazette*, dated 22nd September 1910, Part III, pages 74 to 112:—

*Page 82, line 1 of Rule 14 newly inserted.*—Omit "to" at the end of the line.

*Page 91, para* [(*p*)] (*o*), *line 5.*—Italicise the letter 's' in the words "Military Forces."

*Page 102, last line of the proviso to Sub-clause* (*1*) *of Clause 50.*—Italicise the word "applied."

*Page 110, Sub-clause* (*2*) *of Rule 9 of Order XLI.*—Italicise the letter 's' in the word "Appeals" both in the marginal note and in the 2nd line.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

## NOTIFICATION.

*No.* 88—*L. C., dated 29th September* 1910.

Under Rule 40 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying report of the Select Committee on the Mysore Limitation Bill is published for general information with a list showing the amendments effected by the Select Committee therein.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

## Report of the Select Committee on the Mysore Limitation Bill.

We, the members of the Select Committee appointed for the consideration of the Mysore Limitation Bill, have the honor to submit the following report to the Council.

We have considered the Bill and beg to recommend that it be passed with the few changes made by us.

THE FIRST SCHEDULE.

*Article 11.*

We have slightly recast the wording of this article and have inserted words so as to make the article applicable only to cases where claims have been disposed of *after investigation.* This is in accordance with the existing case law on the point.

*Article 12.*

The reference to "a Patni Taluk" is considered unnecessary as no such tenure is in vogue in the State. Clause (*d*) and the explanation thereto have accordingly been omitted.

*Articles 15 and 16.*

We have omitted Article 15, as no such suit as is contemplated therein can lie against the Government. Article 16 seems to provide for some of the cases coming under Section 222 (*a*) of the Mysore Land Revenue Code. It is desirable that provision should be made for all the cases falling under that sub-clause. We have therefore changed Article 16 as follows :—

| *First column.* | *Third column.* |
|---|---|
| Against Government, under Section 222 (*a*) of the Mysore Land Revenue Code. | When the claim or payment is made. |

*Articles 33, 34 and 35.*

The two latter articles have been separately enacted in British India to make up for the deficiency in the numbering that occurred owing to the omission of the two previously existing articles, namely, those relating to suits for the recovery of a wife and for the restitution of conjugal rights. We have thought it better to include all the cases provided for in the three articles in a single article as follows :—

"33. Against an executor, administrator or other representative of a deceased person for wrongs done by such person, where the executor, administrator or other representative is by law liable."

*Articles 111, 112 and 121.*

We have made certain verbal changes in these articles and have also, for the reasons stated for the change in Article 12, omitted the reference to "Patni Taluk" in Article 121.

*Article 122.*

As no suits can be instituted in Mysore on a judgment obtained in Mysore, we have omitted from this article the words "a judgment obtained in the territories of Mysore, or."

*Article 152.*

We have added the words "or a Subordinate Judge" after the words "a District Judge" in this article, so as to provide a rule of limitation for cases where appeals lie direct to the Court of a Subordinate Judge under any order that may be passed by Government under Section 14 of the Mysore Civil Courts Regulation.

*Article 166.*

This article as originally framed applied to all cases of applications for setting aside a sale in execution of a decree. It was brought to our notice by the Chief Court that such a wide provision may lead to hardship in certain cases, as for instance when a judgment-debtor who has had no notice under Section 248 of the existing Civil Procedure Code seeks to have the sale conducted behind his back set aside. Under the existing law, he would have three years' time to apply, but under the article in the Bill he would have to make the application within thirty days. We have therefore limited the scope of this article so as to make it applicable to those cases only to which a period of thirty days or sixty days now applies (cases falling under Articles 166 and 172 of the existing Limitation Act). We are of opinion that cases of fraud should continue to be subject to a rule of three years as under the existing law of limitation.

As under the General Clauses Regulation, the word "Mysore" has been defined to be "the territories of Mysore" we have substituted the former for the latter expression wherever it occurs.

As no changes of an important character have been made by us in the Bill, we consider it unnecessary to republish it.

A list showing all the amendments effected by us is appended.

29*th September* 1910.

H. V. NANJUNDAYYA.
S. NARAYANA RAO.
C. SRINIVASIENGAR.
A. RAMANNA.

---

## List of changes made by the Select Committee on the Mysore Limitation Bill.

[*N. B.*—The portions in square brackets are those deleted by the Select Committee and those in italics newly added.]

*Clause I (2).*

"It extends to the whole of [the territories of] Mysore; and"

*Clause 2.*

* * * * *

(6) "foreign country" means any country other than [the territories of] Mysore:

* * * * *

*Clause 11.*

Suits on foreign contracts.

"(1) Suits instituted in [the territories of] Mysore on contracts entered into in a foreign country are subject to the rules of limitation contained in this Regulation.

(2) No foreign rule of limitation shall be a defence to a suit instituted in [the territories of] Mysore on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule."

*Clause 13.*

Exclusion of time of defendant's absence from [the territories of] Mysore.

"In computing the period of limitation prescribed for any suit the time during which the defendant has been absent from [the territories of] Mysore shall be excluded."

*Clause 19.*

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but, subject to the provisions of the Indian Evidence Act, 1872, as [applicable] *applied* to Mysore, oral evidence of its contents shall not be received.

*Clause 29.*

Nothing in this Regulation shall—

"(*a*) affect the Indian Contract Act, 1872, Section 25, as [applicable] *applied* to Mysore;

Savings.

(*b*) affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law now or hereafter in force in [the territories of] Mysore."

*Clause 30.*

Provision for suits for which the period prescribed is shorter than that prescribed by the Indian Limitation Act, 1877, as [applicable] *applied* to Mysore.

"Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Regulation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1877, as [applicable] *applied* to Mysore, may be instituted within the period of two years next after the passing of this Regulation, or within the period prescribed for such suit by the Indian Limitation Act, 1877, whichever period expires first.

THE FIRST SCHEDULE.

| | | |
|---|---|---|
| 2. For compensation for doing or omitting to do an act alleged to be in pursuance of any enactment in force for the time being in [the territories of] Mysore. | One year. | The date of the order. |
| 11. By a person against whom [any of the following orders] *an order* has been made *under the Code of Civil Procedure after an investigation of a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree,* to establish the right which he claims to the property comprised in the order.<br>[Order under the Code of Civil Procedure on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree.] | | |
| 12. To set aside any of the following sales:—<br>(*a*) Sale in execution of a decree of a Civil Court;<br>(*b*) Sale in pursuance of a decree or order of Deputy Commissioner or other officer of revenue;<br>(*c*) Sale for arrears of Government revenue, or for any demand recoverable as such arrears [;]<br>[(*d*) Sale of a Patni Taluk sold for current arrears of rent.<br>*Explanation.*—In this article, "patni" includes any intermediate tenure saleable for current arrears of rent.] | | |
| [15. Against Government to set aside any attachment, lease or transfer of immovable property by the Revenue authorities for arrears of Government revenue.] | [One year.] | [When the attachment, lease or transfer is made.] |

| | | |
|---|---|---|
| 16. [Against Government to recover money paid under protest in satisfaction of a claim made by the Revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.] | One year. | When the *claim or* payment is made. |
| *Against Government under Section 222 (a) of the Mysore Land Revenue Code.* | | |
| 33. [Under any law for the time being in force enabling executors, administrators or representatives to sue and be sued for wrongs done to or by a person deceased against an executor.] | | |
| [34. Under the same law against an administrator.] | | |
| [35. Under the same law against any other representative.] | | |
| *Against an executor, administrator or other representative of a deceased person for wrongs done by such person, where the executor, administrator or other representative is by law liable.* | Two years. | When the wrong complained of is done. |
| 87. By the assured to recover premia paid under a policy [avoidable] *voidable* at the election of the insurers. | * * * * | |
| 103. By a Muhamadan for exigible dower ([Mu'wajjal] *Mu'ajjal*). | * * * * | |
| 111. By a vendor of immovable property [for personal payment of] *to enforce personal liability for* unpaid purchase money. | * * * * | |
| 112. For a call by a company registered under any [Statute or Act or Regulation] *law in force.* | * * * * | |
| 121. To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue [or in a patni taluk] or *in* other saleable tenure sold for arrears of rent. | * * * * | |
| 122. Upon [a judgment obtained in the territories of Mysore, or] a recognizance. | Twelve years. | The date of the [judgment or] recognizance. |
| 152. Under the Code of Civil Procedure to the Court of a District Judge *or a Subordinate Judge.* | * * * * | |
| 166. Under the same Code to set aside a sale in execution of a decree on *the ground of irregularity in publishing or conducting the sale or on the ground that the decree-holder has purchased without the permission of the Court or on the ground that the person whose interest in the property purported to be sold had no saleable interest therein.* | * * * * | |
| 182. For the execution of a decree or order of any Civil Court not provided for [by Article 183 or] by Section 48 of the Code of Civil Procedure. | * * * * | |

## THE SECOND SCHEDULE.

| | | | |
|---|---|---|---|
| 1877 | XV | ... | The Indian Limitation Act, 1877, as [extended] *applied* to Mysore by the Government of India Notification, Foreign Department, Judicial No. 174—J., dated the 26th October 1877. | The whole. |
| 1879 | XII | ... | The Registration and Limitation Acts Amendment Act, 1879, as [introduced into] *applied to* Mysore by the Government of India Notification No. 320, dated 19th November 1879. | The whole of Section 108. |

* * * * *

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 40

BANGALORE, THURSDAY, OCTOBER 6, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No.* 90—*L. C., dated 3rd October* 1910.

(Erratum.)

In the Report of the Select Committee appointed for the consideration of the Mysore Limitation Bill and the list of amendments to the Bill made by them and published under Notification No. 88—L. C., dated 29th September 1910, Part III, pages 114 to 117:—

*Page 116, Article 11, 7th line.*—Romanize the word "*to.*"

*Page 117, Article 166, 2nd line.*—Italicise the word "on."

By Order,
S. Hiriyannaiya,
*Secretary, Mysore Legislative Council.*

## NOTIFICATION.

*No. 89—L. C. dated, Bangalore, 3rd October 1910.*

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying report of the Select Committee on the Mysore Insolvency Bill is published for general information.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

---

## Report of the Select Committee on the Mysore Insolvency Bill.

We, the members of the Select Committee to whom the above Bill was referred for consideration, have the honour to submit the following report.

We entertained some doubt whether such an elaborate law as the one now embodied in the Bill was needed for Mysore in its present condition, and the question whether it would not be better to restore Chapter XX of the existing Civil Procedure Code to the Civil Procedure Bill, now under revision by the legislature, also engaged our attention. It was, however, pointed out to us that the Bill is a self-contained enactment, fuller than the fragmentary provision of law to be found in the Civil Procedure Code, under which applications for insolvency can be filed by a judgment-debtor only when he has been arrested or his property attached, or by a creditor, only after he has obtained a decree. While, under the Bill, the opportunities for taking advantage of the benefits of the Insolvency Law have been increased, facilities have also been afforded for getting fraudulent alienations of the judgment-debtor's property summarily set aside, that is, without the need for the expensive and protracted proceedings of a regular suit. These considerations have induced us to accept, though with some hesitation, the Bill as introduced into the Council. We note that a similar difficulty was experienced by certain Local Governments in British India.

A few changes have been made by us which are explained below :—

*Clause 3.*—Sub-clause (2) of this clause has been omitted, as the necessary provision will be made in the Civil Courts Regulation which is proposed to be amended in connection with the Small Cause Courts Bill now before the Council. We have also slightly recast the wording of sub-clause (1) as follows :—

"(1) The jurisdiction under this Regulation shall be exercised by the District Courts."

*Clauses 9 and 10.*—To make the meaning clear, we have substituted the words "petitioning creditor" for the word "petitioner" in clause 9, where it first occurs, and have added at the end of clause 10 the words "such representative being substituted as the Court may direct," so as to provide for proper representation in proceedings where the debtor concerned dies after the insolvency proceedings have been set in motion.

*Clause 16, sub-clause (3).*—We consider this provision, which makes the property of which the insolvent has only the "reputed" ownership available to his creditors in insolvency, unsuited to Mysore, as it is meant to be applicable only to large commercial centres. The sub-clause has therefore been omitted.

*Clause 21, sub-clause (2).*—We have omitted this sub-clause, as there is no such enactment as is referred to in force in Mysore.

*Clause 25.*—We have omitted this clause providing a special mode of proof (as by sending affidavits through post) as, in a small State like Mysore, parties can appear in Courts without much inconvenience.

*Clause 28, sub-clause (1).*—We have omitted the words "certain or contingent" occurring here, as it is doubtful whether the value of contingent rights can be fixed with sufficient approximateness for practical purposes, and as it would be as much as may be fairly expected in such cases to provide for the discounting of "future" debts at their present worth. We may note also that the word "contingent" has not acquired a definite meaning in Indian Law.

*Clause 36.*—The clause as it stands refers mainly to English marriage settlements. But as we think that similar protection is deserved in the case of marriage gifts (especially those that constitute Stridhana) we have altered the phraseology a little, *viz.*, by substituting "at or" for "before and," in lines 2 and 3 of this clause.

*Clause 46.*—In sub-clause (3) of this clause provision has been made for an appeal to the Chief Court in certain cases with the previous permission of the District Court or the Chief Court. We consider it unnecessary to introduce this novel provision into the procedure of the Courts of the State and have, instead, provided for revision in such cases, as well as in cases falling under sub-clause (1). The proviso has therefore been omitted and the following has been substituted for sub-clause (3) :—

"(3) The Chief Court may, for the purpose of satisfying itself as to the legality or correctness of any order of a District Court passed under sub-section (1) or of any order other than those mentioned in sub-section (2), call for the case and pass such order with respect thereto as it thinks fit."

*Clause 49.*—We have slightly recast the wording of this clause as follows :—

"49. Subject to any rules made under this Regulation, it shall be competent to the Court before which proceedings are taken under this Regulation to decree costs of such proceedings including the costs of maintaining a debtor in the Civil prison in such manner as it thinks fit."

*Clause 53.*—This is another provision for which there is no need in Mysore. We have accordingly omitted it.

*Clause 54.*—As the provisions in the Bill inapplicable to the State have been omitted, and as there is no great diversity of conditions between different places in the State, we consider it unnecessary to retain this clause.

We have also changed references in the Bill to the old Civil Procedure Code to the corresponding provisions of the new Civil Procedure Code about to be enacted, *viz.*, the word and figure "Section 68," for "Section 320" in line 3 of sub-clause (1) of clause 21 and the words and figures "paragraphs 2 to 10 of the Third Schedule" for "Sections 320 to 325" in the same sub-clause, and have substituted the word "Mysore" for the words "the territories of Mysore" wherever it occurs, *vide* Section 3 (24) of the General Clauses Regulation. The word "January" in sub-clause (3) of clause 1 has also been omitted, as it would be well to leave the date on which the Regulation is to come into force to be fixed later on.

As the few changes made by us have been set forth in this report, we consider it unnecessary to republish it.

H. V. NANJUNDAYYA.

*30th September 1910.* C. SRINIVASIENGAR.

I approve of the draft report except on the two points noted below :—

1. I would retain clause 25 of the Bill as it now stands. It facilitates the proof of the claim of a creditor who may be residing at a great distance from the Court-house though within the Mysore State, or who may be a merchant carrying on business in Delhi or Benares, without much cost and trouble. There are also safeguards against false claims being advanced, for the Court may call for proof of the claim at any time either on its own motion or at the instance of any one of the other creditors. The receiver also may move the Court for removing any creditor from the list.

2. I would also retain clause 53 of the Bill intact. It is nothing less than a crime to borrow money from any person without disclosing that the borrower is an undischarged insolvent. A clause of this kind is essential.

S. NARAYANA RAO.

I approve of the above report subject to the following remark :—

I am of opinion that the word "propriety" should be inserted between the words "legality" and "or" in clause 46, para 3, so that full powers of revision on matters of law and fact may be exercised by the Chief Court.

A. RAMANNA.

## NOTIFICATION.

*No. J.* 1177—*Regis.* 35-09-2, *dated 5th October* 1910.

In supersession of the present Registration Rules No. 29 A, 49, 50, 51, 52 and 53, the following Rules framed under Section 69 of the Mysore Registration Regulation, I of 1903, and approved by the Government of His Highness the Maharaja of Mysore, are hereby published for general information, in accordance with the requirements of that section. These rules will take effect from the first day of January 1911 :—

29A. Where the executant or his representative is not personally known to the Registering Officer, but to some other person on whose testimony the Registering Officer may rely, after satisfying himself that such person can certify to the identity of the executant without any doubt, he may admit the identity recording an endorsement on the document specifying how the identity was established.

49. The endorsements and certificate under Sections 52, 58, 59 and 60 shall be written in the Registering Officer's own hand in the forms hereinafter prescribed, or, as near thereto as the circumstances of each case may require, unless he has been specially authorised by the Inspector-General to use Endorsement stamps under Rule 50.

*Forms of endorsements.*

(1) Presented at 3-15 P.M. on the 1st March 1910 in the office of the Registrar of Bangalore (or at No. Street, Pete, Bangalore City, or at the private residence of ) by

(Signed) A. B. or,
(Signed) E. F. with addition (representative of A. B.).
or (Agent of A. B. under a general or special power of attorney, dated and authenticated by the of ).
or (Signed A. B.) under the order of the District Registrar or Court dated No. of 1910,

(2) Execution (and receipt of Rs. being consideration in whole or in part) admitted by

Thumb impression. (Signed) C. D. with addition, or,
" G. H. with addition (representative of C. D.)
or (Agent of C. D. under a general or special power of attorney dated and authenticated by the of ).

(3) Executant or representative or agent known personally to the Registrar

or

" " " identified by
(Signed) I. J. with addition.

(4) When a witness has been examined for anyother purpose under Section 63, the substance of his evidence should be briefly noted in the margin of the Register Book and the following endorsement shall be made on the document :—

"Witnesses examined under Section 63."
(Signed) K. L. with addition.
" M. N. with addition.

(5) Rs. paid in my presence by (Signed A. B.) to (Signed C. D.) or jewels described in the instrument delivered in my presence by (Signed A. B.) to (Signed C. D)

(Signed Q. R.)
1st March 1910. Registrar.

(6) Registered as No. 2896 of Book I, Volume 35, pages 232 to 235.

Fee paid Rs. 25. (Signed) Q. R.....
2nd March 1910. Registrar.....

50. The Inspector-General may specially authorise any Registering Officer to use stamps for making, on documents presented for registration, the endorsements and certificate prescribed by Sections 52, 58 and 60. The stamps to be used must be obtained on indent from the Inspector-General's Office and must be kept in the personal custody of the Registering Officer and be kept in a sealed bag when not in use. The endorsements must be impressed on the documents by the Registering Officer himself and no one else may, on any account whatever, be allowed to handle them. The endorsements and certificate must be signed and the blank spaces therein must be filled in by the Registering Officer in his own hand and stamps may not be used for affixing signatures.

51. An executing party shall be required to use the same language in signing the endorsement which he has used in signing the document.

52. Whenever an English document may be registered in a Sub-Registry office by a Sub-Registrar who understands English, the endorsements on it shall be in English.

53. If there is not sufficient blank space in the instrument for the endorsements and certificate, they may be entered on a covering slip or rider. In that case, a note to that effect shall be entered on the instrument itself and signed by the Registering Officer.

When a document occupies more than one sheet of paper, the number of the sheet, the number of the document of which the sheet forms a part and the seal and signature of the Registering Officer shall be endorsed on every sheet.

By Order,
C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

**Vol. 45.] PUBLISHED BY AUTHORITY. [No. 41**

BANGALORE, THURSDAY, OCTOBER 20, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. J.* 1177—*Regis.* 35-09-2, *dated 5th October* 1910.

In supersession of the present Registration Rules No. 29 A, 49, 50, 51, 52 and 53, the following Rules framed under Section 69 of the Mysore Registration Regulation, I of 1903, and approved by the Government of His Highness the Maharaja of Mysore, are hereby published for general information, in accordance with the requirements of that section. These rules will take effect from the first day of January 1911 :—

29A. Where the executant or his representative is not personally known to the Registering Officer, but to some other person on whose testimony the Registering Officer may rely, after satisfying himself that such person can certify to the identity of the executant without any doubt, he may admit the identity recording an endorsement on the document specifying how the identity was established.

49. The endorsements and certificate under Sections 52, 58, 59 and 60 shall be written in the Registering Officer's own hand in the forms hereinafter prescribed, or, as near thereto as the circumstances of each case may require, unless he has been specially authorised by the Inspector-General to use Endorsement stamps under Rule 50.

*Forms of endorsements.*

(1) Presented at 3-15 P.M. on the 1st March 1910 in the office of the Registrar of Bangalore (or at No. Street, Pete, Bangalore City, or at the private residence of by

(Signed) A. B. or,
(Signed) E. F. with addition
(representative of A. B.).
or (Agent of A. B. under a general or special power of attorney, dated and authenticated by the of ).
or (Signed A. B.) under the order of the District Registrar or Court dated No. of 1910,

(2) Execution (and receipt of Rs. being consideration in whole or in part) admitted by

Thumb impression. (Signed) C. D. with addition, or,

" G. H. with addition

(representative of C. D.)

or (Agent of C. D. under a general or special power of attorney dated and authenticated by the of ).

(3) Executant or representative or agent known personally to the Registrar

or

" " identified by

(Signed) I. J. with addition.

(4) When a witness has been examined for anyother purpose under Section 63, the substance of his evidence should be briefly noted in the margin of the Register Book and the following endorsement shall be made on the document :—

"Witnesses examined under Section 63."

(Signed) K. L. with addition.

M. N. with addition.

(5) Rs. paid in my presence by (Signed A. B.) to

(Signed C. D.) or jewels described in the instrument delivered in my presence by (Signed A. B.) to (Signed C. D)

(Signed Q. R.)

1st March 1910. Registrar.

(6) Registered as No. 2896 of Book I, Volume 35, pages 232 to 235.

Fee paid Rs. 25. (Signed) Q. R.....

2nd March 1910. Registrar.....

50. The Inspector-General may specially authorise any Registering Officer to use stamps for making, on documents presented for registration, the endorsements and certificate prescribed by Sections 52, 58 and 60. The stamps to be used must be obtained on indent from the Inspector-General's Office and must be kept in the personal custody of the Registering Officer and be kept in a sealed bag when not in use. The endorsements must be impressed on the documents by the Registering Officer himself and no one else may, on any account whatever, be allowed to handle them. The endorsements and certificate must be signed and the blank spaces therein must be filled in by the Registering Officer in his own hand and stamps may not be used for affixing signatures.

51. An executing party shall be required to use the same language in signing the endorsement which he has used in signing the document.

52. Whenever an English document may be registered in a Sub-Registry office by a Sub-Registrar who understands English, the endorsements on it shall be in English.

53. If there is not sufficient blank space in the instrument for the endorsements and certificate, they may be entered on a covering slip or rider. In that case, a note to that effect shall be entered on the instrument itself and signed by the Registering Officer.

When a document occupies more than one sheet of paper, the number of the sheet, the number of the document of which the sheet forms a part and the seal and signature of the Registering Officer shall be endorsed on every sheet.

By Order,

C. S. BALASUNDARAM IYER,

*Officiating Secretary to Government,*

*General and Revenue Departments.*

# The Mysore Gazette.

**Vol. 45.] PUBLISHED BY AUTHORITY. [No. 42.**

BANGALORE, THURSDAY, OCTOBER 27, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

### NOTIFICATION.

*No. J.* 1177—*Regis.* 35-09-2, *dated 5th October* 1910.

In supersession of the present Registration Rules No. 29 A, 49, 50, 51, 52 and 53, the following Rules framed under Section 69 of the Mysore Registration Regulation, I of 1903, and approved by the Government of His Highness the Maharaja of Mysore, are hereby published for general information, in accordance with the requirements of that section. These rules will take effect from the first day of January 1911 :—

29A. Where the executant or his representative is not personally known to the Registering Officer, but to some other person on whose testimony the Registering Officer may rely, after satisfying himself that such person can certify to the identity of the executant without any doubt, he may admit the identity recording an endorsement on the document specifying how the identity was established.

49. The endorsements and certificate under Sections 52, 58, 59 and 60 shall be written in the Registering Officer's own hand in the forms hereinafter prescribed, or, as near thereto as the circumstances of each case may require, unless he has been specially authorised by the Inspector-General to use Endorsement stamps under Rule 50.

*Forms of endorsements.*

(1) Presented at 3-15 P.M. on the 1st March 1910 in the office of the Registrar of Bangalore (or at No. Street, Pete, Bangalore City, or at the private residence of by

(Signed) A. B. or,
(Signed) E. F. with addition (representative of A. B.).
or (Agent of A. B. under a general or special power of attorney, dated and authenticated by the of ).
or (Signed A. B.) under the order of the District Registrar or Court dated No. of 1910,

(2) Execution (and receipt of Rs. being consideration in whole or in part) admitted by

Thumb impression. (Signed) C. D. with addition, or,
" G. H. with addition
(representative of C. D.)
or (Agent of C. D. under a general or special power of attorney dated and authenticated by the of ).

(3) Executant or representative or agent known personally to the Registrar

or

" " " identified by
(Signed) I. J. with addition.

(4) When a witness has been examined for any other purpose under Section 63, the substance of his evidence should be briefly noted in the margin of the Register Book and the following endorsement shall be made on the document :—

"Witnesses examined under Section 63."
(Signed) K. L. with addition.
" M. N. with addition.

(5) Rs. paid in my presence by (Signed A. B.) to (Signed C. D.) or jewels described in the instrument delivered in my presence by (Signed A. B.) to (Signed C. D)

(Signed Q. R.)
1st March 1910. Registrar.

(6) Registered as No. 2896 of Book I, Volume 35, pages 232 to 235.
Fee paid Rs. 25. (Signed) Q. R.....
2nd March 1910. Registrar.....

50. The Inspector-General may specially authorise any Registering Officer to use stamps for making, on documents presented for registration, the endorsements and certificate prescribed by Sections 52, 58 and 60. The stamps to be used must be obtained on indent from the Inspector-General's Office and must be kept in the personal custody of the Registering Officer and be kept in a sealed bag when not in use. The endorsements must be impressed on the documents by the Registering Officer himself and no one else may, on any account whatever, be allowed to handle them. The endorsements and certificate must be signed and the blank spaces therein must be filled in by the Registering Officer in his own hand and stamps may not be used for affixing signatures.

51. An executing party shall be required to use the same language in signing the endorsement which he has used in signing the document.

52. Whenever an English document may be registered in a Sub-Registry office by a Sub-Registrar who understands English, the endorsements on it shall be in English.

53. If there is not sufficient blank space in the instrument for the endorsements and certificate, they may be entered on a covering slip or rider. In that case, a note to that effect shall be entered on the instrument itself and signed by the Registering Officer.

When a document occupies more than one sheet of paper, the number of the sheet, the number of the document of which the sheet forms a part and the seal and signature of the Registering Officer shall be endorsed on every sheet.

By Order,
C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government,*
*General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 44.

BANGALORE, THURSDAY, NOVEMBER 10, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. 105—L. C., dated 2nd November 1910.*

Under Rule 32 of the Rules for the conduct of business of the Mysore Legislative Council, the following Bill further to amend the Mysore Chief Court Regulation is published for general information with a statement of objects and reasons.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

### A Bill further to amend the Mysore Chief Court Regulation, 1884.

Preamble.

WHEREAS it is expedient to further amend the Mysore Chief Court Regulation, 1884; His Highness the Maharaja is pleased to enact as follows:—

Addition of a new sub-section to Section 14 of the Mysore Chief Court Regulation as amended by Regulation II of 1890.

1. The following shall be added as sub-section (4) to Section 14 of the Mysore Chief Court Regulation, 1884, as amended by Regulation II of 1890, namely:—

"(4) All Civil appeals referred to in this section shall he heard and disposed of by a judge of the Chief Court sitting singly. Second appeals against such decisions shall, in cases in which second appeals are allowed by law, lie to a Bench consisting of two other judges of the Chief Court. Where there arises a difference of opinion between the two judges comprising a Bench hearing such a second appeal, the decision shall, notwithstanding anything contained in Section 15 of this Regulation or Section 575 of the Code of Civil Procedure, follow the original decree or order."

2. For the first thirteen words of sub-section (1) of Section 15 of the Mysore Chief Court Regulation, 1884, as amended by Regulation II of 1890, the following shall be substituted, namely :—

Amendment of sub-section (1) of Section 15.

"All Criminal appeals other than appeals referred to in Section 13, and all Civil appeals other than appeals referred to in Sections 13 and 14."

3. The words "or by the Chief Court in exercise of its appellate jurisdiction under Section 14 of the Mysore Chief Court Regulation" shall be inserted after the words "subordinate to the Chief Court" in Section 584 of the Civil Procedure Code, Regulation II of 1884.

Amendment of Section 584 of the Civil Procedure Code, 1884.

---

*Statement of objects and reasons.*

Under Section 14 of the Mysore Chief Court Regulation, appelas from the decisions of Munsiffs and Subordinate Judges in the Bangalore Divison lie direct to the Chief Court consequent on the abolition of the District and Sessions Court of Bangalore in 1907. These appeals have, under Section 15 of the said Regulation, to be heard by a Bench of two judges. It is represented by the Chief Court that this arrangement involves considerable loss of valuable time of that Court as cases which are disposed of by a single judge, *viz.*, the District Judge, in the other Divisions of the State have, in the Chief Court, to be heard by a Bench of two judges. With a view to bring the courts of the Bangalore Division into line with the courts of the other two Divisions, and also to facilitate the speedy disposal of work in the Chief Court, which is said to be in a congested state at present, it is proposed, on the recommendation of the Chief Court, to empower a single judge of that Court to hear and dispose of Civil appeals filed under Section 14 of the Chief Court Regulation. This change necessarily involves the grant of a right of second appeal against the decision of the single judge to a Bench of two judges, just as in the case of appeals disposed of in the other two Divisions. The amendment proposed to be made in the Code of Civil Procedure (*vide* clause 3) is consequential to the grant of the right of second appeal above referred to.

---

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 45.

BANGALORE, THURSDAY, NOVEMBER 17, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATIONS.

*No.* 149—*L. C., dated* 11*th November* 1910.

A meeting of the Mysore Legislative Council will be held in the Public Office Buildings, Bangalore, on Tuesday the 22nd November 1910, at 12 noon.

*No.* 150—*L. C., dated* 15*th November* 1910.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore is published for general information with the Bill as amended by the Committee.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

### Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore.

We, the members of the Select Committee appointed for the consideration of the above Bill, beg to submit the following report to the Council:—

The Bill as framed takes the Courts of Small Causes outside the purview of the Mysore Civil Courts Regulation. A Small Cause Court is a Civil Court as much as the Court of the Munsiff, the Court of the Subordinate Judge or a District Court; and we do not see any valid reason why the former should be excepted from the operation of the Civil Courts Regulation in so far as it may be applicable.

Having given our careful consideration to the matter, we are unanimously of opinion that it is desirable that Small Cause Courts should also be brought under "Civil Courts" as defined in that Regulation. With this view we have struck out clauses 4 to 9 and 18 to 22 of the Bill as the provisions contained in them are to be found in the Civil Courts Regulation and we recommend that the latter Regulation be amended as detailed below, so that its provisions may apply to Small Cause Courts also. The course we have adopted has, we conceive, much to recommend it, *viz.*, that there will be one consolidated Regulation to provide for the constitution and establishment of all the Civil Courts in the State except the Chief Court and that a good deal of unnecessary repetition in the Bill of the provisions already contained in the Civil Courts Regulation will be obviated. The Bill will consequently be considerably reduced in bulk, consisting as it will be only of 13 sections, and will provide only for such matters as are peculiar to a Small Cause Court. With this explanation of the main changes made by us in the Bill, we proceed to describe below in brief the other changes proposed by us.

*Clause 2.*—The Chief Court having held in a certain case that the Mofussil Small Cause Courts Regulation, XI of 1865, is yet in force in the State, it seems to us to be necessary to formally repeal that Act as applied to Mysore by Notification of the Government of India in the Foreign Department No. 31—I-J., dated 28th January 1880.

*Clause 3 (b).*—This provision is unnecessary as there is no law in force in the State under which a Magistrate can exercise jurisdiction with respect to debts or other claims of a Civil nature.

*Clause 10.*—To make it clear that suits in which relief in respect of immovable property is claimed are not within the cognizance of Small Cause Courts, we have added the words "in which no relief is claimed in respect of immovable property and" after the word "Schedule" in this clause.

*Clause 12.*—This has been omitted by us as due provision has been made therefor in the Code of Civil Procedure.

*Clauses 14 A & 14 B of the Bill.*—We have carefully considered the provisions contained in the new clauses, 14 A and 14 B, of the Bill, and are of opinion that they are worthy of adoption, as they are calculated to give greater finality to decisions of Small Cause Courts and inspire greater confidence in the minds of the public in decisions by those Courts on questions of fact. A few minor changes have been made by us in these clauses.

14 A.—The expression "subject to such orders as to costs as the Court may in each case think fit" has been inserted after the words "nonsuit the plaintiff."

14 B.—According to the Bill, only suits exceeding Rs. 100 in value could be tried by a composite Court. This we consider to be too high a limit, as such a provision would apply only to suits triable by the Subordinate Judge of Bangalore, the limit of Small Cause jurisdiction in other places being Rs. 100 in Shimoga and Mysore and Rs. 50 in places where there is only a Munsiff. We have therefore reduced the limit fixed in this clause to Rs. 50. We have added a new para directing that the rules framed by the Chief Court under this clause should receive the previous sanction of Government.

We have also added a sub-clause to clause 1 of the Bill directing that the provisions of clause 14 B shall come into force only in such Courts and from such dates as may be notified by the Government in the official Gazette.

*Clause 16.*—This clause, as it stands, is taken from the Provincial Small Cause Courts Act of 1887 and is wider in its scope than the corresponding section of the Civil Procedure Code. We agree with the opinions expressed by the late Chief Judges, Messrs. Ramachandra Iyer and Staley that the power of revision vested in the Chief Court in respect of decisions by Small Cause Courts should be ampler than in British India, and with this object we have recast this clause on the model of Section 217 of the Mysore Land Revenue Code.

*Clause 24.*—We have shortened this clause and added it as a proviso to clause 23.

*Schedule.*—We are of opinion that a positive enumeration of the classes of suits cognizable by a Small Cause Court is on the whole a far better mode of fixing its jurisdiction than the negative method of excluding certain suits which is adopted

in the Small Cause Courts Act of British India. We therefore recommend that the schedule as framed in the Bill be adopted by the Council with the few slight alterations noted below :—

*Articles 4 and 5.*—To make it clear that only suits for money are intended in these enumerations, we have added the words "for money" after "suit" in both these articles.

*Article 7.*—In the interests of clearness, we have substituted "or" for "and" in the expression "boarding and lodging."

*Article 12.*—The condition inserted in this article that the "total deposit should not exceed the pecuniary jurisdiction of the Court" is in our opinion unnecessary, as the jurisdiction of the Court has to be determined primarily by what is due at the time of the suit and not by the volume of the transactions that might have taken place before between the parties.

We have added another Schedule showing the changes proposed to be made in the Civil Courts Regulation for reasons set forth in the opening portion of our report. Only a few of them call for remarks here.

*Section 3 of the Civil Courts Regulation.*—The expression "the Court of Small Causes" has been inserted in this section so that a Small Cause Court may be included within the definition of a Civil Court. The insertion of a similar expression in Section 5 provides for the local jurisdiction of a Court of Small Causes.

The new Section 10A directs that the jurisdiction of a Court of Small Causes in respect of suits triable by it shall be regulated by the law relating to Courts of Small Causes for the time being in force. Appropriate changes have been made in Sections 19 and 21 in respect of the suspension or removal of judges of Civil Courts, and appointments, etc., of ministerial officers of such Courts. The Civil Courts Regulation as thus amended will provide for all the matters contained in clauses 4 to 9 and 18 to 22 of the Bill.

We recommend that the Bill as now amended by us be adopted by the Council with the changes proposed in the Civil Courts Regulation.

H. V. NANJUNDAYYA.
A. RANGASWAMI IYENGAR.
S. NARAYANA RAO.
C. SRINIVASIENGAR.
M. C. RANGIENGAR.
D. VENKATRAMAYYA.

14*th November* 1910.

I agree to the report subject to the following remarks:—

The condition imposed in clause 12 of the schedule that the total deposit should not exceed the pecuniary jurisdiction of the Small Cause Court is in my opinion quite necessary.

The suggestion for the omission of the condition on the score that the jurisdiction has to be determined primarily by what is due at the time of the suit and not by the volume of the transactions that might have taken place between the parties would virtually enable the Small Cause Courts to adjudicate and record findings upon various disputed items of deposits, each of which may be beyond the jurisdiction of the Small Cause Court, though the sum-total remaining due at the time of the suit after withdrawal of portions of deposits may be within the jurisdiction of the Court. Hence the provision may remain as it stands.

2. I may also be permitted to remark that notwithstanding the desirable provision as to composite Courts based on the County Courts Act, in this country Rs. 500 would be a fortune to many persons and the maximum limit of the jurisdiction of the Small Cause Courts may, therefore, be reduced to Rs. 300.

A. RAMANNA,
*Member, Mysore Legislative Council.*

## A Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore.

(AS AMENDED BY THE SELECT COMMITTEE.)

[*N.B.—The portions in square-brackets are those omitted and those in italics newly added by the Committee.*]

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

### [CHAPTER I.]

[PRELIMINARY.]

Title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Small Cause Courts Regulation, 19 ."

(2) It extends to the whole of Mysore.

(3) It shall come into force on the 1st day of 19 .

*But the provisions of Section 8 shall come into force only in such Courts and from such dates as may be notified by Government in the Official Gazette.*

*Repeal of Act XI of 1865.*

2. (*a*) *From and after that date, Act XI of 1865 as applied to Mysore by the Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, shall be repealed.*

Construction of references to Act XI of 1865.

(*b*) Any enactment or document referring to Act XI of 1865 shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Savings.

3. Nothing in this Regulation shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

[(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature; or]

[*c*] (*b*) any local or any special law other than the Code of Civil Procedure.

Definition.

[4. In this Regulation, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Regulation, and includes any person exercising jurisdiction under this Regulation in any such Court.]

### [CHAPTER II.]

[CONSTITUTION OF COURTS OF SMALL CAUSES.]

[Establishment of Courts of Small Causes.]

[5. (1) The Government may, by order in writing, establish a Court of Small Causes at any place in Mysore.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Government may define, and the Court may be held at such place or places within those limits as the Government may appoint.]

Judge.

[6. When a Court of Small Causes has been established, the Government shall, by order in writing, appoint a Judge of the Court.]

Suspension and removal of Judges.

[7. A Judge of a Court of Small Causes may be suspended or removed from office by the Government.]

[8. The Government shall allow a Court of Small Causes such establishment of ministerial officers as may be necessary; and subject to any orders made by the Government in this behalf, the Judge of a Court of Small Causes may appoint the ministerial officers of the Court and may fine, suspend or dismiss them.]

Ministerial officers.

[9. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Regulation or in any other enactment for the time being in force as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

Duties of ministerial officers.

(2) The Chief Court may make rules, consistent with this Regulation and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.]

---

## [CHAPTER III.]

### [JURISDICTION OF COURTS OF SMALL CAUSES.]

[10.] *4.* All suits of the classes specified in the schedule, *in which no relief is claimed in respect of immovable property and* of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by a notification published in the official Gazette.

Cognizance of suits by Courts of Small Causes.

[11.] *5.* Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Exclusive jurisdiction of Courts of Small Causes.

---

## [CHAPTER IV.]

### [PRACTICE AND PROCEDURE.]

[12. The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits.]

Application of the Code of Civil Procedure.

[13. When the Judge of a Court of Small Causes is absent, the chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.]

Adjournment of cases by chief ministerial officer.

[14.] *6* (1). Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

Return of plaints in suits involving questions of title to immovable property.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of [the second paragraph of section 57 of] the Code of Civil Procedure *regarding the return of plaints* and make such order with respect to costs as it

deems just, and the Court shall, for the purposes of the [Indian Limitation Act, 1877,] *the Mysore Limitation Regulation*, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Non-suiting in certain cases.

[14 A] 7. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff, *subject to such orders as to costs as the Court may in each case think fit*: provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

Trial by composite Court.

[14 B] 8. In all suits where the amount claimed shall exceed *fifty* [one hundred] rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite Court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court, in accordance with rules to be framed in this behalf by the Chief Court.

When such an application has been made and allowed, the case shall be heard by a Court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or, where there is no such Judge present at the place, a Magistrate to be deputed by the Magistrate of the District, and two jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of a majority of the members of the composite Court.

*The rules to be framed by the Chief Court under this section shall be subject to the previous sanction of Government.*

Appeals from certain orders of Courts of Small Causes.

[15.] 9. Where an order specified in section [588, clause (29),] *104, clause (1) (h)*, of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

[16.] 10. The Chief Court, for the purpose of satisfying itself [that] *as to the correctness, legality or propriety of* a decree or order made in any case decided by a Court of Small Causes [was according to law], may call for the case and pass such order with respect thereto as it thinks fit.

Finality of decrees and orders.

[17.] 11. Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

---

## [CHAPTER V.]

### [SUPPLEMENTAL PROVISIONS.]

Subordination of Courts of Small Causes.

[18. A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the Chief Court, and shall—

(*a*) keep such registers, books and accounts as the Chief Court from time to time prescribes, and

(*b*) comply with such requisitions as may be made by the District Court, the Chief Court or the Government for records, returns and statements in such form and manner as the authority making the requisition directs.]

Seal.

[19. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Government.]

Abolition of Courts of Small Causes.

[20. The Government may, by order in writing, abolish a Court of Small Causes.]

[21. (1) Nothing in this Regulation shall be construed to prevent the Government from appointing a person who is a Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

Saving of power to appoint Judge of Court of Small Causes to other office.

(2) When a Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.]

[Application of Regulation to Courts invested with jurisdiction of Court of Small Causes.]

[22. (1) So much of Chapters III and IV as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases by them,

and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this regulation,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.]

[23.] *12.* A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different Courts.

Application of Regulation and Code to Court so invested as to two Courts.

[Modification of Code as so applied.]

[24.] [Notwithstanding anything in the last two foregoing sections—]

[(*a*)] *Provided that* when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, *it shall not be necessary, unless the Court otherwise directs, to send the documents prescribed by the Code of Civil Procedure in the case of transfer of decrees for execution from one Court to another.* [or]

[(*b*) When a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree, unless in any case the Court, by order in writing, requires them to be sent.]

[25.] *13.* (1) Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

Continuance of proceedings of abolished Courts.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

Publication of certain orders.

[26. All orders required by this Regulation to be made in writing by the Government shall be published in the official Gazette.]

## SCHEDULE I.

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES.

(*See section* [*10*] *4.*)

(1) A suit for money lent;
(2) A suit for money by or against a surety;
(3) A suit for the price of goods sold;
(4) A suit *for money* on a contract for work and labour;
(5) A suit *for money* on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board [and] *or* lodging;
(8) A suit for money received by defendant for plaintiff's use;
(9) A suit for money paid to defendant by mistake or money overpaid;
(10) A suit for money paid or goods delivered at defendant's request;
(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited [when the total deposit does not exceed the pecuniary jurisdiction of the Court];
(13) A suit for recovery of specific movable property pledged or deposited with the defendant, or its value.

## *SCHEDULE II.*

*Amendment of the Mysore Civil Courts Regulation, I of 1883.*

*Section 3.—The word "four" shall be substituted for the word "three" and the words "4thly, the Court of Small Causes" shall be inserted after the words "3rdly, the Court of the Munsiff."*

*Section 4-(a).—The words "and of the Courts of Small Causes" shall be inserted after the word "Munsiffs."*

*Section 5.—The words "or of a Court of Small Causes" shall be inserted after the word "Munsiff."*

*Section 10A.—After Section 10, the following new section shall be added, namely:—*

*"10 A. The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such Courts for the time being in force in Mysore."*

*Section 19.—The conjunction "or" occurring after the words "Subordinate Judge" shall be omitted and the words "or a Judge of a Court of Small Causes" shall be inserted after the word "Munsiff."*

*Section 21.—The word "and" occurring before the word "Munsiffs" shall be omitted and the words "and Judges of Courts of Small Causes" shall be inserted after the said word.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 46.

BANGALORE, THURSDAY, NOVEMBER 24, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATION.

*No. Fl.* 2659—*S. R.* 94-08-6, *dated* 23*rd November* 1910.

In exercise of the powers conferred by Section 4 of the Mysore Excise Regulation, V of 1901, as amended from time to time, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to invest the Officer in charge of the Kolar Gold Fields Patrol Party with power to perform the acts and duties mentioned in Sections 40 to 53, inclusive, of the said Regulation.

By Order,
C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government, General and Revenue Departments.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 47.

BANGALORE, THURSDAY, DECEMBER 1, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

NOTIFICATIONS.

*No. Fl.* 2659—*S. R.* 94-08-6, *dated* 23*rd November* 1910.

In exercise of the powers conferred by Section 4 of the Mysore Excise Regulation, V of 1901, as amended from time to time, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to invest the Officer in charge of the Kolar Gold Fields Patrol Party with power to perform the acts and duties mentioned in Sections 40 to 53, inclusive, of the said Regulation.

*No. J. 1584—Pris. 39-09, dated 25th November 1910.*

Under Section 54 of the Prisons Act of 1870, the Government of His Highness the Maharaja of Mysore are pleased to direct that the following be added as Rule 2 A after Rule 2 in the set of Rules regarding the calculation of the date of release of prisoners, issued under Government Order No. 12994-5—J. 1601, dated 15th May 1899.

"2 A. When a prisoner is undergoing more than one sentence and the first sentence is annulled on appeal, the second sentence shall take effect from its own date.

*Illustration* 1.—A prisoner is sentenced on the 1st July to two periods of six months' imprisonment for two offences. On appeal the first sentence is quashed on the 31st August. The prisoner will be entitled to release on the 31st December.

*Illustration* 2.—A prisoner is sentenced on the 1st July to six months' imprisonment and on the 1st August to another period of six months' imprisonment. On appeal the first sentence is quashed on the 31st August. The prisoner will be entitled to release on the 31st January."

By Order,

C. S. Balasundaram Iyer,

*Officiating Secretary to Government, General and Revenue Departments.*

*No.* 202—*L. C., dated 28th November* 1910.

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the following Bill is published for general information together with a statement of Objects and Reasons.

By Order,
S. HIRIYANNAIYA,
*Secy., Mysore Legislative Council.*

## A Bill to provide for the prevention of smoking by juveniles.

Whereas it is expedient to provide for the prevention of smoking by youthful persons in Mysore; His Highness the Maharaja is pleased to enact as follows :—

Preamble.

Short title.

1. (1) This Regulation shall be called "The Mysore Prevention of Juvenile Smoking Regulation."

Extent and commencement.

(2) It shall extend to the whole of Mysore and

(3) It shall come into force from

Interpretation.

2. In this Regulation unless there is something repugnant in the subject or context :—

Police Officer.

"Police Officer" shall mean a member of the Regular Police Force appointed under the Mysore Police Regulation, 1908, as well as a member of the Village Police Force appointed under the Rules for the organisation and regulation of the Village Police for the time being in force.

Tobacco.

"Tobacco" shall mean tobacco cut or uncut and includes any preparation or mixture of tobacco with other substances for the purpose of smoking or chewing or taking in as snuff.

Penalty on selling tobacco to youthful persons.

3. If any person sells to a person apparently under the age of sixteen years, except on the written order of the parent, guardian or employer of such last-named person, any cigars, cigarettes, tobacco or cigarette papers, he shall be liable, on conviction before a Magistrate, in the case of a first offence, to a fine not exceeding twenty rupees, and in the case of second offence, to a fine not exceeding fifty rupees, and in the case of a third and every subsequent conviction, to a fine not exceeding one hundred rupees.

Seizure of tobacco.

4. It shall be the duty of a Police Officer to seize any cigars, cigarettes, tobacco or cigarette papers, in the possession of any person apparently under the age of sixteen whom he finds smoking, or chewing or taking in as snuff, tobacco in any street or public place.

Tobacco seized how dealt with.

5. The articles seized under the last preceding section together with the person from whom they were seized shall be forthwith taken to the nearest Police Station, and the Officer in charge of such Police Station shall take down the name and address of the person's parent or guardian and ascertain if he is a pupil of any public school.

Notice to be given after seizure.

6. The said Police Officer shall then send a notice of such seizure to the parent or guardian and to the Head Master of the School.

Person found with tobacco how dealt with.

7. The person who had the articles in his possession shall be set free, except in the case of a seizure after the lapse of three months from the date of the issue of any notice under the last preceding section, in which case, he may be sent in custody before the nearest Magistrate.

8. When a person under sixteen years of age is produced before a Magistrate under the last preceding section, such Magistrate may either discharge him with a warning or inflict on him a fine not exceeding one rupee or order him to receive six stripes in the way of school discipline.

Punishment.

9. Any sentence of whipping passed under this Regulation shall be administered privately in the presence of the Magistrate.

Whipping.

---

## STATEMENT OF OBJECTS AND REASONS.

A representation having been made in the Representative Assembly of 1907 on the desirability of passing a law to prevent the growing evil of juvenile smoking in the State, the Government considered it sufficient then to direct the Inspector-General of Education to issue suitable instructions to the Heads of Schools and Colleges that smoking by the boys whether in or out of school should be viewed as a misconduct deserving of punishment.

The Government are inclined to think that this measure does not adequately meet the evil and they consider that some action should also be taken against the persons who sell tobacco to young boys. With this object a short Bill has been drawn up on the lines of the Ceylon Ordinance of 1909.

The Bill makes it penal for any person to sell tobacco in any form to young men apparently under the age of 16 years and empowers the Police Officers to seize tobacco found in the possession of such young men (clauses 3 and 4). The fact of seizure is to be intimated by the Police to the parent or guardian of the boy or to the Head Master of the School of which he is a pupil.

The boy shall not be liable to punishment for a first offence, but if he repeats it after a lapse of three months he may be sent in custody to the nearest Magistrate who might either discharge him with a warning or inflict a fine not exceeding one rupee or order him to receive six stripes by way of school discipline.

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 48.

BANGALORE, THURSDAY, DECEMBER 8, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

### NOTIFICATIONS.

*No. Fl.* 2659—*S. R.* 94-08-6, *dated* 23*rd November* 1910.

In exercise of the powers conferred by Section 4 of the Mysore Excise Regulation, V of 1901, as amended from time to time, and in exercise of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to invest the Officer in charge of the Kolar Gold Fields Patrol Party with power to perform the acts and duties mentioned in Sections 40 to 53, inclusive, of the said Regulation.

By Order,
C. S. BALASUNDARAM IYER,
*Officiating Secretary to Government, General and Revenue Departments.*

---

*No.* 224—*L. C., dated* 3*rd December* 1910.

ERRATUM.

In the Bill to provide for the prevention of smoking by juveniles published under Notification No. 202—L. C., dated 28th November 1910, in the *Mysore Gazette* dated 1st December 1910, Part III, pages 139, 140,—

*Page 139, para 3 of the Bill, line 6*—

Insert the article 'a' between the words 'of' and 'second.'

*Page 140, para 3 of the Statement of Objects and Reasons, line 2*—

Omit the word 'the' occurring after the word 'empowers.'

*No.* 231—*L. C., dated 6th December* 1910.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the reports of the Select Committees on the marginally noted Bills are published for general information.

(1) Bill to amend the Mysore Municipal Regulation, 1906 in certain respects.
(2) Bill to amend the Mysore Local Boards Regulation, 1902.
(3) Bill for the regulation and control of Hackney Carriages in Mysore.

By Order,
S. HIRIYANNAIYA,
*Secretary, Mysore Legislative Council.*

**Report of the Select Committee on the Bill to amend the Mysore Municipal Regulation.**

We have carefully considered the provisions of this Bill and are of opinion that very few amendments are necessary. We bestowed our careful attention on the question whether the system of licensing articles liable to octroi (principally tobacco and betel leaves) which is reported to have been in vogue within the limits of Bangalore City Municipality and the Civil and Military Station, Bangalore, during the last nearly forty years without giving rise to any complaint of hardship or inconvenience, should be continued. We had the advantage of hearing the Vice-President of the City Municipality in regard to the necessity of continuing this system. In view of the facilities that now exist for smuggling tobacco into the City with the aid of persons who store large quantities of this article in villages immediately outside Municipal limits we are satisfied that, if smuggling is at all to be effectively prevented, the provisions contained in clauses 1 and 3 of the Bill are necessary. We, therefore, recommend that the said clauses (with the slight alterations to be explained below) be retained.

Clause 2 of the Bill provides for the licensing of vehicles or animals plying for hire and prescribes the rates of hire for such vehicles and animals and also for the services of persons hired to carry loads. We consider it unnecessary to prescribe any regulations in respect of animals or persons hired to carry loads as no such system of hiring prevails at present. But it is desirable that vehicles for hire, whether carrying passengers or goods, should be brought under some sort of control. But these matters, we think, can be better provided for in the Hackney Carriage Bill, which is also now before the Legislative Council. We understand that it is the intention of the Committee appointed to consider that Bill to widen its scope and incorporate into it the provisions of this Bill relating to vehicular traffic. It is in our opinion undesirable that the provisions of the Municipal Regulation and those of the Hackney Carriage Bill should overlap each other. We, therefore, recommend that clause 2 of the Bill be omitted.

A slight change is needed in the second proviso to clause 3 (2). This exemption as it stands applies to the case of articles not exceeding Rs. 200 in value *purchased* by any person for his own use or for that of any member of his family; but, we think, it should also for the same reason apply in the case of articles obtained by a person otherwise than through purchase; as, for example, in respect of the produce of a man's own garden. We have therefore substituted the word "kept" for "purchased."

The words "consequent on the owner dying or quitting the station" in the same proviso limits unduly, in our opinion, the application of this exemption. A man may have to sell articles of consumption for other causes than those mentioned here. We have therefore substituted the words "by such person when not required for such use" for the words "by auction, consequent on the owner dying or quitting the station." With these few changes we recommend that the Bill be passed.

We consider it unnecessary that the Bill should be republished.

K. P. PUTTANNA CHETTY.
H. V. NANJUNDAYYA.
A. RANGASWAMI IYENGAR.
D. DEVARAJ URS.
S. NARAYAN RAO.
C. SRINIVASIENGAR.
D. VENKATARAMAIYA.

*6th December 1910.*

**Report of the Select Committee on the Bill to amend the Mysore Local Boards Regulation, 1902.**

We, the members of the above Committee, have the honor to submit the following report to the Council.

We have carefully considered the provisions of the above Bill and are of opinion that it may be passed with the few changes described below.

We recognise that several of the provisions of the Bill will not be utilised by many District Boards in the State and that some of them will have only a very restricted local application. Nevertheless, we consider it desirable that such comprehensive provisions should find a place in the Local Boards Regulation so as to enable a District Board to take action under such of the provisions as may be deemed necessary with reference to its particular needs without the necessity of having recourse to fresh legislation. It may be stated that some of these provisions are also contained in the Municipal Regulation, which applies to all the Municipalities in the State and are also to be found in the Local Boards Acts of British India.

*Clause 2.*

We think that the words "including tolls and fees leviable under Section 31A (1) (*g*)," which are proposed to be inserted at the end of clause 5 of Section 20 of the Regulation, should form a separate clause, and we have accordingly substituted for the words "(i) at the end of clause 5" occurring here, the words "(i) after clause 5, as clause 5 A."

*Clause 3.*

31 A (1) (*b*).—As a substantive provision requiring licenses to be taken in respect of the matters referred to in this sub-clause seems to be necessary, we propose the insertion of the words "requiring licenses to be taken and" at the beginning of sub-clause 1 (*b*) of Section 31 A.

*Sub-clause (h) of clause 1 of Section 31 A.*

This general provision regarding power to frame bye-laws for carrying out all the purposes of the Regulation seems to be unnecessary and may be omitted.

To make the meaning clearer we have recast the paragraph on 'infringement' as follows:—

*Infringement.*—"Any person infringing any bye-laws made under this Regulation shall be punished with fine not exceeding fifty rupees for each offence, and in case of a continuing offence, with a further fine not exceeding ten rupees for each day after written notice of the offence by the District Board."

As very few changes have been made by us in the Bill, we consider it unnecessary to republish the Bill.

K. P. PUTTANNA CHETTY.
D. DEVARAJ URS.
S. NARAYANA RAO.
C. SRINIVASIENGAR.

*6th December 1910.*

I am sorry that I cannot bring myself to agree to the proposed amendments. The existence of such provisions in the Municipal Regulation does not necessarily, in my opinion, justify their introduction into the Local Boards Regulation. If carefully analysed, these provisions affect trades and professions whether of an innocent or offensive character. The scope of the Municipal Regulation is confined to a small area in towns, whereas the control under a District Board extends to the area of a district. Even in large cities where local self-Government has existed for a sufficiently long time, it is found impracticable to bring all trades and professions under coercive legislation by a licensing system. The Local Boards Regulation was only passed in the year 1902, although some attempt at drafting was commenced so far back as 1879. If powers contemplated by this amendment Bill should be conferred on the District Boards, they may be tempted to apply the provisions without knowing their effects upon trade. There are instances in which flourishing small mofussil towns have been seriously affected by the introduction of Octroi duties unwittingly by their Municipal Councils following the example

of the City of Bangalore. The condition of the people is now in a state of transition. Every trade and profession is feeling keenly the effects of competition. The people hitherto engaged in their respective trades and professions from the time of their ancestors are going to the wall with the introduction of labour-saving machinery. Unless the rebuilding of society with up-to-date education has been completed, it is a difficult attempt to bring the existing manufacturers and traders in the mofussil under the stringent licensing system. The provisions under consideration give ample powers for abuse by the ill-paid agency which the Local Boards can afford to employ. It is the sad experience of every Board to find itself quite unable to maintain the several institutions under its control with the funds at its disposal. The appeals from these Boards for State aid demonstrate that their spending departments have been growing year after year to an abnormal extent. The new ideas killed the old and well-established charitable notions that existed in the village community. The Indian traditional methods of charity which every village community practised in the establishment and maintenance of village communal institutions have been disappearing. I am therefore of opinion that the District Boards will have first to be so remodelled as to bring in a popular element which would command that amount of influence and prestige which would enable the Boards to bring private charity to assist them in a large measure in the establishment and upkeep of village communal institutions. After sufficient trial is given to revive and foster such feelings among the village communities, we will have time to consider whether the stringent provisions now contemplated will be asked for by the Boards themselves for introduction. At present, I am constrained to say that no such popular demand for legislation is forthcoming.

*6th December 1910.* D. VENKATARAMAIYA.

[*N.B.*—MR. M. NARAIN RAO, who was also a member of the Committee, was absent owing to indisposition.]

---

**Report of the Select Committee on the Bill for the regulation and control of Hackney Carriages in Mysore.**

We, the members of the Select Committee appointed for the consideration of the above Bill, have the honor to submit the following report to the Council.

It has been brought to our notice that in Bombay a single enactment has been passed to provide for the regulation of vehicles whether intended to carry passengers or goods. Besides the present Bill, there is now before the Legislative Council the Municipal Regulation Amendment Bill, clause 2 of which relates to the regulation of vehicles carrying passengers or goods for hire. As there is no object to be gained in having the same provisions in two different enactments, and as these provisions can well be fitted into the framework of the present Bill, we have changed the title of the Bill into "A Bill for the regulation and control of Public Conveyances in Mysore" and have made the necessary alterations in the body of the Bill also.

The definition of the word "Public Conveyance" as proposed by us includes all vehicles with two or more wheels plying for hire, whether drawn by animals or men, and whether carrying passengers or goods. It will be noticed that rickshaws which are coming into vogue in the larger cities and laden carts drawn by men will fall within this definition.

The other changes made by us are of a purely consequential or verbal character and require no explanatory remarks. Owing to the very few alterations made in the Bill, we consider it unnecessary to republish it. We recommend that the Bill as now amended by us be approved by the Council.

K. P. PUTTANNA CHETTY.
D. DEVARAJ URS.
S. NARAYANA RAO.
C. SRINIVASIENGAR.
D. VENKATARAMAIYA.

*6th December 1910.*

[*N. B.*—Mr. M. Narain Rao, who was also a member of the Committee, was absent owing to indisposition.]

## REGULATION No. IV OF 1910.

*(Received the assent of His Highness the Maharaja on the first day of December 1910.)*

**A Regulation to recognise the representative character of the Administrator-General of Madras.**

Preamble.

Whereas the provisions of the Administrator-General's Act, 1874 (II of 1874), of the Governor-General of India in Council apply as a personal law only to British subjects in the territories of Mysore and whereas it is expedient to make better provision for the recognition in the said territories of the representative title of the Administrator-General of Madras against all debtors of, and all persons holding property belonging to, deceased British subjects in the said territories; His Highness the Maharaja is pleased to enact as follows:—

Administrator-General competent to represent deceased British subjects in Mysore.

1. The Administrator-General of the Presidency of Madras as defined in the Administrator-General's Act, 1874 (II of 1874), shall be competent to represent a deceased British subject leaving assets in the territories of Mysore.

Probate or letters of administration granted to Administrator-General to supersede the grant of letters of administration to certain other persons.

2. Where probate or letters of administration to any such deceased British subject have been duly granted to the Administrator-General of Madras, no person claiming merely as a creditor, a legatee other than a universal legatee or a friend of the deceased shall be entitled to letters of administration to the deceased, and letters of administration, if any, already granted to any such person shall be liable to be recalled and revoked at the instance of the said Administrator-General.

Effect of probate or letters of administration granted to the Administrator-General by the High Court of Judicature, Madras.

3. Probate or letters of administration granted by the High Court of Judicature at Madras to the Administrator-General of Madras shall have effect over all the property and estate, movable or immovable, of a deceased British subject in the territories of Mysore, and shall be conclusive as to the representative title of the said Administrator-General against all debtors of the deceased and all persons holding property therein which belongs to him, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such property to the said Administrator-General.

High Court of Judicature at Madras deemed to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act.

4. So far as regards the Administrator-General of Madras, the High Court of Judicature at Madras shall be deemed to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act, 1865 (X of 1865), as applied to the territories of Mysore by Foreign Department Notification No. 203, dated the 23rd July 1868.

Probate or letters of administration granted by the High Court of Judicature at Madras deemed to be probate or letters within the meaning of the Succession Certificate Regulation.

5. Probate or letters of administration granted by the High Court of Judicature at Madras to the Administrator-General of Madras shall be deemed to be probate or letters of administration within the meaning of section 4, subsection (*b*), clause (i), of the Succession Certificate Regulation, VII of 1901.

Administrator-General may sue and be sued in his representative character as such.

6. All suits and other proceedings commenced by or against the Administrator-General of Madras in his representative character in respect of property belonging to a deceased British subject in the territories of Mysore may be brought by or against him by his name of office in the Courts of the said territories, and no suit or other proceeding heretofore or hereafter commenced by or against any person as the Administrator-General of Madras, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of the said Administrator-General, but the same may,

by order of the said Courts and upon such terms as to the service of notices or otherwise as the Courts may direct, be continued by or against his successor immediately upon his appointment in the same manner as if no such death, resignation or removal had occurred:

Proviso.

Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Creditor's suit against Administrator-General.

7. If any suit be brought in the Courts of the territories of Mysore by a creditor against the Administrator-General of Madras in his representative character, the plaintiff shall be liable to pay the costs of the suit down to and including the decree, unless upon proof by affidavit or otherwise that not less than one month previous to the institution of the suit he had applied in writing to the said Administrator-General, stating the amount and other particulars of the claim and supporting the same by such evidence as, under the circumstances of the case, the Administrator-General was reasonably entitled to require, and that the Administrator-General had refused or neglected to register the claim according to the practice of his office.

If in any such suit judgment is pronounced in favor of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased equally and rateably with other creditors.

T. ANANDA ROW,
*Dewan.*

# The Mysore Gazette.

Vol. 45.] PUBLISHED BY AUTHORITY. [No. 49.

BANGALORE, THURSDAY, DECEMBER 15, 1910.


## PART III.

### Legislative Measures and Rules thereunder.

REGULATION No. V OF 1910.

*(Received the assent of His Highness the Maharaja on the 2nd day of December 1910.)*

THE MYSORE POISONS REGULATION.

**A Regulation to provide for the regulation of the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic generally.**

Preamble.

Whereas it is expedient to make provision for regulating the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic throughout the whole of Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title and extent.

1. (1) This Regulation may be called "The Mysore Poisons Regulation, 1910."

(2) It extends to the whole of Mysore.

POISONS GENERALLY.

Power to regulate possession for sale and sale of any poison in certain areas.

2. (1) The Government may, by rule, regulate within the limits of any Municipality the possession for sale and the sale, whether wholesale or by retail, of any specified poison.

(2) In particular, and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide for, amongst other matters—

(*a*) the grant of licenses to possess any specified poison for sale, wholesale or by retail, and the fixing of the fee (if any) to be charged for such licenses;

(*b*) the classes of persons to whom alone such licenses may be granted;

(*c*) the classes of persons to whom alone any such poison may be sold;

(*d*) the maximum quantity of any such poison which may be sold to any one person;

(*e*) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;

(*f*) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and

(*g*) the inspection and examination of any such poison when possessed for sale by any such vendor.

(3) Any substance specified as a poison in a rule made under this section shall be deemed to be a poison for the purposes of this Regulation.

WHITE ARSENIC.

Power to prohibit importation into Mysore of white arsenic except under license.

3. The Government may, by notification in the official Gazette, prohibit, except under and in accordance with the conditions of a license, the importation of white arsenic into Mysore, and may, by rule, regulate the grant of licenses and prescribe the conditions to be imposed thereby under this section.

Power to regulate possession for sale and sale of white arsenic throughout the State.

4. (1) The Government may, by rule, also regulate within the whole, or any part, of Mysore the possession for sale and the sale, whether wholesale or by retail, of white arsenic.

(2) In particular, and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide, amongst other matters, for all or any of the matters specified in section 2, sub-section (2).

(3) Rules made under sub-section (1) may further provide that no person shall sell any powdered white arsenic unless the same is, before the sale thereof, mixed with soot, indigo or Prussian blue in the proportion of half an ounce of soot, indigo or Prussian blue at least to one pound of the white arsenic, and so in proportion for any greater or less quantity:

Provided that, where such arsenic is stated by the purchaser to be required for some purpose for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold, without such admixture, in a quantity of not less than 10 pounds at any one time.

Power to regulate possession of white arsenic in certain tracts.

5. (1) The Government may further, by rule, regulate the possession of white arsenic in any local area in which murder by poisoning with that drug or the offence of mischief by poisoning cattle therewith appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.

(2) In making any rule under sub-section (1), the Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the white arsenic in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

OTHER POISONS.

Power to apply Regulation to other poisons.

6. (1) The Government may, by notification in the official Gazette, apply to any specified poison other than white arsenic all or any of the provisions of this Regulation relating exclusively to white arsenic.

(2) Any substance specified as a poison in a notification issued under sub-section (1) shall be deemed to be a poison for the purposes of this Regulation.

PENALTIES AND PROCEDURE.

Penalty for unlawful importation, etc.

7. (1) Whoever—

(*a*) commits a breach of any rule made under section 2 or section 4, or sub-section (2) of section 10, or

(*b*) imports into Mysore, without a license, white arsenic the importation of which is for the time being restricted under section 3, or

(*c*) breaks any condition of a license for the importation of white arsenic granted to him under section 3,

shall be punishable,—

(i) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and

(ii) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, and, in the case of any offence mentioned in clause (*b*) or clause (*c*) of sub-section (1), any animals and conveyances used in carrying it, shall be liable to confiscation.

Power to issue search-warrant.

8. (1) The Inspector-General of Police, or the District Magistrate or the Sub-Divisional Magistrate may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Regulation or any rule thereunder or that any poison liable to confiscation under this Regulation is kept or concealed.

(2) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure, 1904, relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

Rules.

9. (1) In addition to any other power to make rules hereinbefore conferred, the Government may make rules generally to carry out the purposes and objects of this Regulation.

(2) Every power to make rules conferred by this Regulation shall be subject to the condition of the rules being made after previous publication.

(3) All rules made by the Government under this Regulation shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Regulation.

SAVINGS.

Savings.

10. (1) Nothing in this Regulation or in any license granted or rule made thereunder shall, save as provided for in sub-section (2) to this section, extend to or interfere with anything done in good faith in the exercise of his profession or business as such—

(*a*) by a medical or veterinary practitioner, or

(*b*) by a chemist or druggist duly qualified to act as such under the law for the time being in force in the United Kingdom, or

(*c*) by a chemist, druggist or compounder dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner; or

(*d*) subject to any rules for the time being in force under section 5, by a tanner or hide merchant.

(2) The Government may, in the case of medical or veterinary practitioners or chemists or druggists vending any poisonous drug to be specified by Government in this behalf, make rules for—

(i) the maintenance by them of registers of sales, the particulars to be entered in such registers and the inspection of the same;

(ii) the safe custody of such drugs and the labelling of the vessels, packages or coverings in which any such drug is sold or possessed for sale; and

(iii) the inspection and examination of any such drugs when possessed for sale by any such person.

(3) Notwithstanding anything hereinbefore contained, the Government may, in its discretion, by general or special order, declare that all or any of the provisions of this Regulation shall not be deemed to apply to any article, or class of articles of commerce specified in such order, or to any poison, or class of poisons used for any purpose so specified, and may, from time to time, alter or vary any such declaration.

(4) The Government may, by general or special order, exempt any person or class of persons, either generally or in respect of any poison or poisons specified in the order, from the operation of any rule which it is empowered by this Regulation to make.

T. ANANDA ROW,
*Dewan.*